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CURSING THE SACRED

Recent Debate on Blasphemy in Indonesia

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RECENT DEBATE ON BLASPHEMY IN INDONESIA

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LIST OF ABBREVIATIONS

AKKBB	: National Alliance for Freedom of Religion and Faith
Bassra	: Gathering Agency of *'Ulamâ* of Islamic Boarding School of Madura
BPUPKI	: Investigatory Body for Preparatory Work for Indonesian Independence
DDII	: Council of Islamic Propagation of Indonesia
Demos	: Center for Democracy and Human Rights Studies
Depag	: Department of Religious Affairs
DPP	: Central Board
DPR	: Indonesian Legislative Assembly
Elsam	: Institute for Study and Advocacy of Society
FKASWJ	: Communication Forum for the Followers of the *Sunna* and the Community of the Prophet
FKUB	: Forum of Freedom of Religious Community
Forpeta	: Alliance of Homeland Defense Forum
FPI	: Front of Islamic Defender
FUI	: Forum of Islamic Community
GAI	: Ahmadiyah Movement of Indonesia
Garis	: Islamic Reformist Movement
HMIP	: Politics Student Association
HTI	: *Hizbut Tahrir* of Indonesia
ICMI	: Association of Muslim Intellectuals
IMM	: Muhammadiyah Student Association
Imparsial	: Indonesian Human Rights Monitor
ISAI	: Institute for Study of Information Influx
JAI	: Ahmadiyah Congregation of Indonesia
JIL	: Islamic Liberal Network
Komnas	: National Commission
KUHP	: Indonesian Criminal Code
KWI	: Indonesian Church Representation
Lakpesdam	: Institute for Human Resources Studies and Development
LPPI	: Institute of Research and Islamic Studies
MA	: Supreme Court
Masyumi	: Modernist Islamic Party
MK	: Constitutional Court
MMI	: Council of Muslim Fighters of Indonesia
MPR	: People's Consultative Assembly
MPRS	: Provisional People's Consultative Assembly
MUI	: Indonesian Ulama Council
NGO	: Non-Government Organization
NU	: Nahdlatul Ulama
Paradin	: Indonesian Advocate Association
PBB	: Crescent Moon and Star Party

PBHI	: Indonesian Legal Aid and Human Rights Association
Permata	: *Setara* Society Association
Persis	: Unity of Islam
PKB	: Nation Awakening Party
PKI	: Communist Party of Indonesia
PPP	: United Development Party
SAREC	: Swedish Agency for Research Cooperation
SKB	: Joint Decree
UI	: University of Indonesia
UII	: Islamic University of Indonesia
UUD 1945	: 1945 Indonesian Constitution
YLBHI	: Indonesian Legal Aid Foundation

INTRODUCTION

A. Background of the Study

The word blasphemy originated in Greek term which means "speaking evil". It also means "treason against God" or "all acts of verbal offences against sacred values". Hassan defines blasphemy as "an intolerable affront to the sacred, the priestly class, the deeply held beliefs of the believers and the basic values a community shares". He further states that "blasphemy exists to prevent challenge to the notions of the sacred in organised religion. Its existence is a litmus test of the standards a society feels it must enforce to preserve its religious beliefs and morality and to prevent mockery of its gods. In Judeo- Christian-Islamic traditions its commission is punishable by death."[1]

Some sociological and anthropological works on blasphemy in Indonesia have been undertaken, most of which conclude that modernity is the main factor which raises the discussion of blasphemy in modern society. Hassan argues that the modernization of the society plays an important role to intesify the debates on blasphemy which emphasizes secularization of the state and privatization of religion. This situation challenges and forces religion to redefine its position in the society.[2] In addition, Daniels conludes that these debates reflect "the ongoing processes of radicalization, liberalization, and cultural and politico-jural Islamization."[3]

The recent debate on blasphemy, however, to some extent show a different trend. It highlights the multi-interpretation of freedom of religion in general and different understanding of blasphemy in particular within the society. This recent debate was formally held in a judicial review at the Indonesian Constitutional Court (MK-*Mahkamah Konstitusi*) in which some religious organizations, most of

[1] Riaz Hassan, "Expressions of Religiosity and Blasphemy in Modern Societies," *Asian Journal of Social Science* 35 (2007): 111-125.
[2] Ibid. See also Harry G. Aveling, "Religion and Blasphemy in Modern Indonesian Literature," in *Twentieth Century* (March 1970): 217-224.
[3] Timothy P. Daniels, "Liberals, Moderates and Jihadists: Protesting Danish Cartoons in Indonesia," *Count Islam* 1 (2007): 231-146.

which are Muslim organizations ranging from radical to liberal involve to express their opinions concerning the petition of the removal of the laws against blasphemy[4] in Indonesia. This petition was officially delivered to the MK by some human right activists and some Muslim scholars. They argue that the laws against blasphemy should be wirthdrawn since it is against freedom of religion and human rights which are guaranteed in the 1945 Indonesian Constitution (UUD 1945-*Undang-Undang Dasar*). This petition was opposed by the government and some Muslim organizations, such as the Nahdlatul Ulama and Muhammadiyah, not to mention the radical Muslim organizations such as the Front of Islamic Defender (FPI-*Front Pembela Islam*) and the Unity of Muslim Community (FUI-*Forum Umat Islam*).

Before deciding whether to refuse or approve the petition, the MK invited some religious organizations, governments, and experts to make some considerations of the enforcement of the laws against blasphemy. The diverse opinions about the laws against blasphemy underline the extent to which freedom of religion should be implemented in Indonesia; whether it should be limited by regulations or not.

B. Research Questions

This study is intended to investigate the recent debate on the laws against blasphemy to the reinterpretation of religious freedom in Indonesia. In addition, it aims to explicate not only the opinions of the confronted groups which involve in the recent debate but also the reaction of the government concerning the petition of the removal of the laws. In specific, the analysis would attempt to answer the following research questions:

a. What is the social background of the recent debate on the laws against blasphemy in Indonesia?
b. How is freedom of religion redefined in the recent debate on the laws against blasphemy in Indonesia?

[4] For practical reason, if it is stated, the plural form of the laws against blasphemy refers to the law number 1/PNPNS/1965 and the article number 156a of the Indonesian Criminal Code (KUHP-*Kitab Undang-Undang Hukum Pidana*).

c. What are the implications of the definition of freedom of religion for religious harmony and tolerance in Indonesia?

C. Research Methods

The primary research data were collected from library research in which I would investigate the origin of the laws against blasphemy. Afterwards, I would analyze the document of the decision of the MK regarding the dispute of the laws against blasphemy, which contains opinions of the confronted groups, government, and the experts invited by the MK about the enforcement of the laws. In addition, I would discuss the documentary movie of this dispute to capture the situation during the session at the MK. I would conduct a survey of people's opinions about the decision of the MK. This survey would be conducted by my assistant to the members of Student Organizations in Malang.

The data analysis consists of three steps. The first step is to critically read the main data to map the opinions in the document of the MK. The second is to analyze the opinions based on categories of the parties involving in the session of the MK, allowing us to see different understanding of the application of freedom of religion. The last is to draw a conclusion of the reasons behind the recent debate on blasphemy in Indonesia.

D. Scope and Limitation of the Study

The document of the decision of the MK consists of three hundred and thirty pages. In the analysis, I would focus mainly on the opinions of different parties which take part in the judicial review of the laws against blasphemy. In other words, I would not deal with the analysis of the status of the laws in the viewpoint of Indonesian legal system. I would only observe Muslims' opinions about the implementation of the laws and their understandings of freedom of religion in the framework of this recent debate.

On the other hand, the documentary movie of the hearing session at the MK would be employed as a supporting datum to describe the situation before and during the MK held a judicial review of the laws. It is important because it

would help us to understand how freedom of religion should be redefined and revitalized in the post-New Order Indonesia.

In terms of survey, the questionnaires were distributed to 10 members of three different organizations in Malang. They include the Institute for Human Resources Studies and Development (Lakpesdam-*Lembaga Kajian dan Pengembangan Sumber Daya Manusia*,) of the NU, the Muhammadiyah Student Association (IMM-*Ikatan Mahasiswa Muhammadiyah*), and the Politics Student Association (HMIP-*Himpunan Mahasiswa Ilmu Politik*). The questionnaires are concerned with their opinions of those student organizations about the enforcement of the laws against blasphemy and the implications of the decision of the MK in the judicial review.

E. Related Studies on the Laws against Blasphemy in Indonesia

Studies of the laws against blasphemy in Indonesia have conducted by some researchers. They focus their analysis mainly on the discussion of the positions of the laws within legal system in Indonesia and compare them with those in some other countries. However, studies which emphasize opinions of the people about the implementation of the laws, to the best of my knowledge, are rarely found.

Arief has conducted a comparative study between the laws against blasphemy in Indonesian and some other countries in the world. He describes that the specific article regarding blasphemy was not found in the KUHP. Therefore, the law against blasphemy in the KUHP was derived from another regulation which was created in 1965. The main regulation against blasphemy is in the law number 1/PNPS/1965. However, he further asserts that in some other countries, such as England, there are specific regulations against blasphemy either in their criminal codes or in other kinds of regulation. The laws against blasphemy in some countries cope with defamation of religion and beliefs, abuse of freedom of

religion, insult of the sacred and places of worship, and feeling of hatred which might trigger conflict.[5]

Abdullah argues that the enforcement of the laws against blasphemy is to prevent and protect religion from heresy. He further concludes that the laws have a legal standing in the framework of Indonesian legal system and effectively solve disputes of the emergence of heretical groups. He states that heresy should be prevented to keep and maintain religious harmony in society. Besides, the prevention of heresy cannot only be undertaken through legal system, but also through educational and cultural programs, such as religious missionaries and interfaith dialogues.[6]

As mentioned above, most of the studies on the laws against blasphemy do not deal with the controversy of the laws. Therefore, this research attempts to fill the lacunae of the studies on the laws against blasphemy in Indonesia by elaborating different perceptions of the society regarding the existence of the laws.

F. Structure and Organization of the Study

This thesis consists of three interconnected chapters. The first chapter focused on the history of the formulation of the laws against blasphemy. I would discuss the 1965 Presidential Decree of desecration of religions as the origin of the laws and the insertion of the fourth article of the decree into the article 156 of the KUHP. In addition, I would elaborate the implementation of the laws in the New Order era to depict the controversy of the laws since it was formulated.

The second chapter covers the discussion of the dispute between religious and state authority which indicates the strong influence of the *fatwâ* in some degree towards the reaction of the society and the government in the case of blasphemy. I would also discuss the case of Ahamdiyah in Indonesia as one of the heretical groups which was accused of blasphemy because its teachings are different from what was widely believed by the majority of Muslims in the

[5] Barda Nawawi Arief, *Delik Agama dan Penghinaan Tuhan di Indonesia dan Perbandingan di Beberapa Negara* (Semarang: Badan Penerbit Universitas Diponegoro, 2008)
[6] Syaifullah Abdullah, "Kebijakan Hukum Pidana dan Non-Pidana dalam Menanggulangi Aliran Sesat" (Master Thesis, Diponegoro University, 2010).

country. Moreover, this research would discuss the societal violence against the members of the Ahmadiyah conducted by radical Muslim organizations which serves as the basis of the recent debate on the laws against blasphemy.

The third chapter focuses on the recent debate on the laws against blasphemy at the MK. It begins with the discussion of the MK including its establishment and functions in Indonesia. Afterwards, I would analyze different opinions about the implementation of the laws against blasphemy to grasp the main issue discussed in the debate. It would lead us to different understandings of freedom of religion in the society. I would also include the opinions about the implications of the decision of the MK regarding the laws against blasphemy.

CHAPTER ONE

THE CHRONICLE OF THE DISCOURSE OF BLASPHEMY

This chapter will historically discuss the formulation of the laws against blasphemy in general. The discussion will consist of three parts. The first part will deal with the 1965 Presidential Decree regarding offense of religion as the embryo of the laws against blasphemy. The second part will explicate the inclusion of the fourth article of the 1965 decree in the KUHP which is mostly used to sentence the people considered to conduct blasphemous attitudes. The last part will elucidate in details the implementation of the laws against blasphemy in the New Order era to gain a clear comparison of its implementation in the Post-Suharto periods.

A. The 1965 Presidential Decree of Blasphemy

The 1965 decree concerning blasphemy was issued by the first president of Indonesia, Sukarno in January 27th, 1965. The creation of the decree was initiated by Oemar Seno Aji, one of the speakers in the first National Conference of Law in 1963, whose one of its agendas was to discuss a specific regulation concerning offense of religion in the Indonesian criminal code (KUHP). He assures that "the first principle of *Pancasila,*[7] declaring "belief in the one and only God" and the article 29 of the UUD 1945 which denotes the official admission of the State to the existence of religion in Indonesia should become the basis of religious life in Indonesia. It is, therefore, necessary that Indonesia has a regulation in the KUHP in regard to offense of religion to prevent defamation of a religion."[8]

[7] *Pancasila* was derived from Sanskrit words, which mean five principles. It is the official philosophical foundation of the Indonesian state which consists of (1) belief in the one and only God; (2) just and civilized humanity; (3) the unity of Indonesia; (4) democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives, and (5) Social justice for the all of the people of Indonesia.

[8] Tedi Kholiludin, *Kuasa Negara Atas Agama: Politik Pengakuan, Diskursus Agama Resmi dan Diskriminasi Hak Sipil* (Semarang: RaSAIL Media Group, 2009), 159-160.

The decree consists of four parts which includes considerations, legal basis of the decree issuance, the content and the clarification of the decree. In the consideration part, it is stated that the decree was issued to create security for the State and the society, and to achieve the idea of nation building and revolution based on justice and welfare. The next part of the decree explains that the decree was formulated in accordance with the article 29 of the UUD 1945, the law number 4 about the amendment of the UUD 1945, and the first paragraph of the article number 2 of the decision of the MPRS number II/MPRS/1960. The last part contains the articles of offense of religion which states:

> Article 1
>
> Every person is forbidden to intentionally tell, suggest or ask for supports in public to interpret the teachings of the religions which exist in Indonesia or to perform religious practices similar to those religions, which deviate the mainstream teachings and practices of the religions.
>
> Article 2
>
> (1) Whoever violates the content of the article number 1 is ordered and warned to stop his activities by the Joint Decree (SKB) issued by the Minister of Religious Affairs, the Minister of Home Affairs, and the Attorney General. (2) If the violation of the law in the first paragraph is conducted by an organization or a cult (*aliran kepercayaan*), the president has authority to ban the organization based on considerations of the Minister of Religious Affairs, the Minister of Home Affairs, and the Attorney General.
>
> Article 3
>
> If the organization or the cult does not obey the Joint Decree of the three ministers and the decision of the president as mentioned in the second paragraph of the article number 2, the members of this organization would be sentenced to five years in prison at maximum.[9]

According to the clarification of this decree, the background of the issuance of the decree is caused by the emergence of cults or organizations of mysticism (*aliran kebatinan/kepercayaan*) in almost all over Indonesia in general and Java in particular whose doctrines were considered to contradict with the fundamental

[9] This is my own translation of the content of the 1965 President's Decree. For the original text of the content of the decree, see Imam Syaukani et al., *Kompilasi Kebijakan dan Peraturan Perundang-Undangan Kerukunan Umat Beragama* (Jakarta: Puslitbang Kehidupan Keagamaan, 2008), 91-92.

teachings of religions in Indonesia. In addition, it is stated in this clarification that the activities of some cults and organizations of mysticism had violated law, damaged national integration and desecrated religions. Furthermore, it is mentioned in the clarification that the 1965 Presidential Decree constitutes a realization of the 1959 Presidential Decree regarding Guided Democracy which becomes a solution to regulate the relation between the State and religion so that Indonesians can live in peace and practice their religions. The aim of the creation of the decree is to prevent deviations of religions. It also aims to protect religious harmony which can be destroyed by blasphemous attitudes and atheism which oppose the first principle of *Pancasila*. The clarification of the decree also explains that the 1965 Presidential Decree was intended to protect religions from desecration which may be committed by a follower of a religion to his own religion or to other religions and vice versa, rather than to restrict the rights of religions which exist in Indonesia.[10]

In addition, the clarification contains explanation for each article of the 1965 decree. It is mentioned that the meaning of the word "in public" in the first article of the decree is in line with its definition in the KUHP,[11] whereas the phrase "religions which exist in Indonesia" refers to Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucius.[12] It further explains that "the admission of these six religions can be proven by the history of religions in Indonesia because they are followed by most of the citizens throughout Indonesian archipelago. Therefore, the 1965 decree is applicable for these religions. However, it does not mean that the other religions, such as Judaism, Shinto, and Taoism are not allowed to exist in Indonesia. They are also protected

[10] Syaukani et al., *Kompilasi Kebijakan dan Peraturan Perundang-Undangan Kerukunan Umat Beragama*, 181-182.

[11] It is the article 156 of the KUHP which deals with the public disturbance. This article conveys that "whoever expresses feelings of hostility, hatred or humiliation in public to a group or many groups of Indonesian people, is punished 4 years in prison or fined four thousands and five hundreds rupiahs in maximum. The definite explanation of a group in this article and the coming ones refers to each element of Indonesian society, which is different from another or other element in the society because of race, region, religion, nationality or position in accordance with the law of the state".

[12] The explanation of the 1965 decree regarding the six religions was arguably considered by some of Indonesians as the admission to 'official' religions in Indonesia.

and guaranteed by the State based on the second paragraph of the article 29 of the UUD 1945". As for mysticism groups or cults, it is stated in the clarification of the 1965 decree that the government tries to guide them to right way in order to convert to one of religions which is based on "belief in the one and the only God" of *Pancasila*. The phrase "religious practices" in the first article of the 1965 decree means every religious activity like declaring a cult as a religion or performing rituals using terminologies similar to those six religions. The criteria of a religion can be determined by the Department of Religious Affairs which has tools and ways to investigate it.[13]

The explanation of the article number 2 of the 1965 mentions that for a person or an adherent of a religion or a follower of a cult who violates the first article of the decree, he would be given advices. However, if the violation is committed by an organization which has serious impact towards religious communities, the president is allowed to declare that a particular organization or cult is forbidden to exist in Indonesia.[14]

In the explanation of the article number 3 of the 1965 decree, it is said that as for a cult which usually does not have an organization or an association, only its followers who continue to violate the article number 2 would be punished, whereas for the followers who stop their deviations, they would not be sentenced.

It is obvious in the clarification of the 1965 decree that the decree was addressed to mysticism followers. According to Webster's Third New International Dictionary, mysticism is "(1) the experience of mystical union or direct communion with ultimate reality reported by mystics or (2) a theory of mystical knowledge: the doctrine or belief that direct knowledge of God, of spiritual truth, of ultimate reality, or comparable matters is attainable thorugh immediate intuition, insight or illumination, in a way differing from ordinary

[13] Syaukani et al., *Kompilasi Kebijakan*, 183.
[14] Ibid., 184.

sense perception or ratiocination."[15] Murthy defines mysticism as an effort to develop the value of human soul, which leads to the highest refinement.[16]

Mysticism in Indonesia refers to *aliran kepercayaan, kebatinan,* and *Kejawen* (Javanese religions). These beliefs, according to Stange, are a united form of syncretism in Java. "Javanism (*Kejawen*) refers at once to the geographical zone centering on the courts of Yogyakarta and Surakarta and the cultural style of those within it who emphasize their ethnic traditions."[17] These cults appeared as a result of the assimilation between animism and religions which came to the archipelago. Robertson asserts that animism[18] had dominated beliefs of the Malay communities before religions, such as Hinduism, Buddhism, Islam, Catholicism and Christianity came in the archipelago.[19] As a result, when converting to a particular religion, they continued to practice their cultural traditional rituals of animism.[20] This syncretistic belief was, therefore, considered to put purity of religion in danger.

Most religions tolerate the syncretistic beliefs unless they contradict with the teachings of a religion. For example in Christianity, Sastrosupono states that syncretism is not opposed by most of Christian preachers as long as it is not against the teachings of Christianity. They realized that the syncretistic belief occurred due to an encounter between the local traditional beliefs and Christianity. However, there are some syncretistic followers who declare themselves as an angel or God or act to humiliate the teachings of Christianity. This kind of belief

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[15] Philip Babcock Gove et. al. (eds.), *Webester's Third New International Dictionary of the English Language Unabridged* (Springfield: Merriam-Webster Inc., 1993), 1497.
[16] Ary Murthy, "Kebatinan", *Enciklopedi Nasional Indonesia* 8 (Jakarta: PT. Cipta Adi Pustaka, 1990), 258.
[17] Paul Stange, "Javanism as Text or Praxis," *Anthropological Forum* 6, 2 (1990): 237-256.
[18] Animism is "the belief that all natural things, such as plants, animals, rocks, thunder and earthquakes, have spirits and can influence human events". See Gove et. al. (eds.), *Webester's Third New International Dictionary of the English Language Unabridged,* p. 25.
[19] Roland Robertson as quoted by Nurdjana, *Hukum dan Aliran Kepercayaan Menyimpang di Indonesia* (Yogyakarta: Pustaka Pelajar, 2009), 38.
[20] The detailed discussion about the development of deviated mysticism towards and its legal standing in Indonesia, see Nurdjana, *Hukum dan Aliran Kepercayaan.*

and action, of course, cannot be accepted by Christianity and this belief can be categorized as blasphemy as stated in the 1965 decree.[21]

Likewise, Islam has close relation to mysticism in the sense that Islam was spread in Indonesia through cultural assimilation. Snouck Hurgronje states that "Islam in Indonesia is not like Islam in the Arab world, since it has been modified in order to fit the local beliefs and traditions which were practiced by the people in Indonesia before Islam, such as animism, Hinduism, and Buddhism."[22] It is because Islam came to Java through Sufism which could easily be accepted and adopted by the syncretistic society.[23] This accelerated the dissemination of Islam in Java, but it raised a new problem of the purity of Islam. The discussion concentrated on whether it is permissible for a person to practice cultural traditional rituals of animism when at the same time becoming a Muslim.

Shihab asserts that in the history of Islam in Indonesia, there were some sufism cults which were considered to deviate from the teachings of Islam. These cults were known as *kejawen* or *tasawuf Jawa* (Javanese mysticism) which integrated between Islam and cultural traditional beliefs.[24] The story of nine Islamic clerics (*Wali Songo*) reflects the confrontation between the nine clerics and Syaikh Lemah Abang or Syaikh Siti Jenar. Syaikh Siti Jenar and his followers were regarded to be heretical and to desecrate Islam. Syaikh Siti Jenar admits himself as God with his teaching of *manunggaling kawula gusti* (being united with God). Due to this teaching, he believes that Muslims are not obligated to perform prayers and fasting if they have united with God. As a result, the nine clerics of Islam opposed Syaikh Siti Jenar and declared him and his followers as apostates becuase they misled the teachings of Islam. It is strongly believed by most of Muslims in Indonesia that he was prosecuted of blasphemy and murdered

[21] M. Suprihadi Sastrosupono, "Sinkretisme dan Orang Kristen Jawa," *Peninjau* 8, 1 (1981): 31-35.
[22] Smouck Hurgronje as quoted by Alwi Shihab, *Antara Tasawuf Sunni dan Tasawuf Falsafi: Akar Tasawuf di Indonesia* (Depok: Pustaka IIMaN, 2009), 72.
[23] Niels Mulder, *Mysticism and Everyday Life in Contemporary Java* (Singapore: Singapore University Press,1983), 1.
[24] Ibid., 73-76.

by the nine clerics. There are, however, a number of versions of the story of Syaikh Siti Jenar. Syaikh Siti Jenar's doctrines were regarded as the origion of Javanism (*Kejawen*) in Islam regardless of the controversy of the story.[25]

According to van Bruinessen, mysticism in relation to Islam refers to "syncretistic beliefs of Islam and various other rituals, most of which are in the form of a *slametan*, an offering to the spirits and communal meal. These beliefs and rituals were associated with the life world of the peasantry, the hazards of the agricultural cycle, and local or ancestral spirits."[26] These practices were conducted by the majority of Muslims in Java. Referring to Geertz's categorization of Muslims in Java, van Bruinessen explains that syncretism was performed by most of the *abangan* and the "rural" *santri*. The *abangan* are muslims who maintain their previous traditional practices, such as *slametan*, believing in spirits of big trees and stones. "There were also urban and elite varieties of this syncretistic culture (for which Geertz used the term *priyayi*)". The term *santri* has two different meanings. The *santri* may mean "the more or less *shari'a*-obeying stricter Muslims, who prayed regularly, fasted during Ramadan, and hoped to save enough money to perform the *hajj* at least once in their lives or students of the *pesantren* (Islamic boarding schools) and most of these *santri* had rural backgrounds."[27] The "rural" *santri's* "religious training consisted mostly of the study of Arabic *fiqh* books and inculcating respect for *ulama* of the past as well as canonical obligations, common *santri* religious practices included grave visiting (*ziyara*) and recitation of sacred texts to ward off danger or call for supernatural support. Urban pious Muslims tended to be influenced by modernist or reformist thought and to reject many of the traditional practices of the rural *santri* and the *abangan*."[28]

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[25] MB. Rahimsyah. AR, *Siti Jenar: Cikal Bakal Faham Kejawen Pergumulan Tasawuf versi Jawa* (Surabaya: Pustaka Agung Harapan, 2006), 153-162.
[26] Martin van Bruinessen, "Saints, Politicians, and Sufi Bureacrats: Mysticism and Politics in Indonesia's New Order," *Sufism and the 'Modern' Islam*, eds. Martin van Bruinessen and Julia Day Howell (London: I.B. Tauris, 2007), 93.
[27] Ibid., 92-93.
[28] Ibid., 93.

The moderate and reformist Muslims were influenced by the 'Muslim reformism of Muhammad Abduh in Egypt' with its slogan to return to the Qur'an and the *Sunna*. Those who opposed syncretism were affiliated with the Muhammadiyah which was founded in 1912. The 'rural' *santri* were affiliated with the NU which was founded in 1926 and which adopted cultural traditional beliefs as long as it does not contradict the fundamental teachings of Islam.[29]

There were heated debates between these two groups regarding syncretistic beliefs in Muslim communities.[30] The core of the debate was to what extent Islam can adopt cultural traditional practices of animism in the syncretistic Javanese society. The NU and the Muhammadiyah have different measurement for the adoption of these beliefs. As for the blasphemy as stated in the 1965 decree, the syncretism is forbidden if it offends religious communities or desecrates the mainstream teachings of a religion.

As a matter of fact, syncretistic groups flourished after the independence of Indonesia. The Department of Religious Affairs (Depag-*Departemen Agama*) reported that there were more or less 360 *kepercayaan* and *kebatinan* groups all over Java in 1953.[31] The 1965 decree as mentioned above is, therefore, to prevent desecration of religions which might trigger conflict in the country. In addition, according to the Depag the abolishment of syncretistic groups should be based on evidences that they are proven to endanger religious harmony and tolerance, or that their activities or practices violated a regulation, or that they became organizations which protected members of the Communist Party of Indonesia[32]

[29] Niels Mulder, *Mysticism and Everyday Life in Contemporary Java,* 1-2.
[30] Martin van Bruinessen, "Saints, Politicians, and Sufi Bureacrats", 94.
[31] Kholiludin, *Kuasa Negara Atas Agama,* 153.
[32] The Communist Party of Indonesia is the largest non-ruling communist party in the world which was crushed 1965 and banned in the following years because they rebelled the government. For more information and discussion about the rebellion, see Robert Cribb, "the Indonesian Massacres," in *Century of Genocide: Critical Essays and Eyewitness Accounts* eds. Samuel Totten and William S. Parsons (New York: Routledge, 2009), 235-262.

(PKI-*Partai Komunis Indonesia*) or protected people who attempt to fail government programs.[33]

B. From the 1965 Presidential Decree to the Criminal Code

The idea of the inclusion of blasphemy into the KUHP was stated in the final clarification of the 1965 decree. It is stated that "deviations of religion which can be categorized as crime are not necessary to mention in the 1965 decree becuase it should have been mentioned in the KUHP."[34] There was, however, no specific article of the KUHP which discussed about blasphmey. It was Oemar Seno Adji who proposed the insertion of a particular article into the KUHP to endorse the final clarification of the 1965 decree. After conducting some conferences of law which discussed the eligibility of the idea of the inclusion of the presidential decree into the KUHP, the government approved his proposal in 1969. Not only did the government insert a specific article regarding blasphemy in the KUHP, but at the same time the government also promoted the 1965 Presidential Decree to be a law number 1/PNPS/1965 regarding offense of religion based on the decision of the MPR.[35]

It is therefore vitally important to mention the article 156a of the KUHP regarding blasphemy is an additional article, inserted into the article 156 of the KUHP. The connection between the decree and KUHP is found in article 4 of the 1965 Presidential Decree which states:

> In the KUHP, it is necessary to add a new article declaring as follows (the article 156a): whoever intentionally expresses feelings or conducts actions in public: a. which in principle is a call for hostility, abuse, or disrespect of religions followed in Indonesia; b. or a call for not to convert to a religion which is based on the first principle of *Pancasila* "a belief in the one and only God", is sentenced 5 years at maximum.[36]

[33] Syaukani et. al., *Kompilasi Kebijakan*, 89-90. For the development and the role of mysticism groups in post-Independent Java, see Mulder, *Mysticism and Everyday Life in Contemporary Java*.
[34] Ibid., 182.
[35] Ibid.
[36] Ibid., 180.

Although article 156a links only to the fourth article of the law number 1/PNPS/1965, the way how it was implemented must be understood as a whole. There are two kinds of blasphemy in the article 156a: offense of religious deviation and offense of anti-religion. The offense of religious deviation covers attitudes or interpretations which can be considered to deviate the fundamental teachings of given religions in Indonesia, such as using the same name of a religion, but believing that God is a creature or that the Prophet Muhammad is not the last prophet. The offense of anti-religion consists of blasphemy and of having no religion.[37]

Indeed, there are several articles in the KUHP dealing with acts considered to be disrespectful of religions. For example, the article 175 prohibits the complication of religious meetings or ceremonies, the article 177 prohibits the harassment and insult towards religious staff conducting religious duties and religious goods used for worship, and the article 503 prohibits noise-making in the proximity of houses of worship.[38] Therefore, before the inclusion of the article 4 of the law number 1/PNPS/1965 into the KUHP, the definition of behaviour which can be categorized as defamation of religion seems to be more specific and clearer than the definition of feelings of hatred and hostility towards religions. However, there was no specific section about prohibition to interpret religious teachings in public even in the content of the article 156a of the KUHP. What is mentioned is the prohibition of expressing feelings and attitudes which can be classified as humiliations of religion.

The article 156 which is related to the article 156a of the KUHP does not, moreover, contain particular points concerning offense of religion. Instead, it discusses the expression of hostility, hatred, and humiliation of religion. The article 156 of the KUHP states:

> Whoever expresses feelings of hostility, hatred or humiliation to a group or some groups of Indonesian people in public, is punished 4 years in prison or

[37] Kholiluddin, *Kuasa Negara atas Agama*, 166.
[38] Barda Nawawi Arief, *Delik Agama dan Penghinaan Tuhan di Indonesia dan Perbandingan di Beberapa Negara* (Semarang: Badan Penerbit Universitas Diponegoro, 2008), 3-4.

> fined four thousands and five hundreds rupiahs at maximum. The definite explanation of a group in this article and the coming one refers to each element of Indonesian society, which is different from another or other element in the society in terms of region, religion, nationality or position in accordance with the law of the state.[39]

It is assumed that article 156a of the KUHP strives to specify the definition of blasphemy regarding interpretations of the teachings of religion. Rumadi asserts that the article 156a of the KUHP did not originate in *Wetboek van Strafrecht* (Dutch Criminal Code), rather than the 1965 Presidential Decree. Conversely, article 156 was derived from the Dutch Criminal Code.[40]

Accordingly, the regulations which specifically discuss blasphemy are placed in two different regulations. The law number 1/PNPS/1965 deals with desecration of religions which is conducted by an organization or a cult in which the sanction is that the government is allowed to ban an organization or a cult which is proven to disgrace a particular religion. According to the content of this law, there are three steps to cope with the case of blasphemy which is committed by an organization. Firstly, the government advices the leader of the organization to stop his activities through an SKB issued by the Minister of Religious Affairs, the Minister of Home Affairs, and the Attorney General. In this case, the leader and his organization would not be punished if they obey the SKB. Secondly, if he does not obey the SKB, the president has an authority to ban and declare a particular organization is not allowed to operate in Indonesia. Lastly, if he violates the decision of the president, he and his members would be sent to five years in prison as based on the third article of the law. In addition, the article 156a of the KUHP was inserted into the article 156 of the KUHP as a link to the law number 1/PNPS/1965 to deal with blasphemy which is conducted by an individual or some members of an organization. The additional section of blasphemy in the KUHP is arguably to reinforce the position of the law number 1/PNPS/1965.[41]

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[39] Rumadi, *Delik Penodaan Agama dan Kehidupan Beragama dalam RUU KUHP* (Jakarta: the Wahid Institute and Yayasan Tifa, 2007), 12.
[40] Ibid, 12.
[41] Barda Nawawi Arief, *Delik Agama dan Penghinaan Tuhan di Indonesia dan Perbandingan Berbagai Negara* (Semarang: Badan Penerbit Universitas Diponegoro, 2010), 6.

C. Blasphemous Attitudes in New Order Indonesia

The implementation of the laws concerning blasphemy was not obvious until the demise of the Old Order regime. The fall of Sukarno was marked by the rebellion of the PKI who murdered senior officers of the Indonesian army. Suharto has a prominent role in the struggle to fight the PKI and convinced the Indonesian society that the PKI was the main actor behind the killings of some generals of the armed forces. Subsequently, he was appointed as a president in 1967 and resigned in 1998. His periods of presidency were well-known as the New Order to differentate it from the Old Order regime.[42]

During the New Order, there were at least three cases of blasphemy in Suharto's period, which were concerned with the teachings of Islam. The first case is Hans Brague (H.B.) Yassin's *Sastra* (literature) magazine, publishing a short story under the title "*Langit Makin Mendung*" written by Ki Pandji Kusmin. H.B. Yassin is a famous Indonesian man of letters (*sastrawan*). He was prosecuted for blasphemy and sentenced to 1 year in prison with 2 years on trial. *Sastra* magazine, which was led by H.B. Yassin, published the short story in August 8th, 1968 in Medan. Since no one knew who Ki Pandji Kusmin was, the Supreme Court decided to blame H.B. Yassin as he hid the identity of the author of the story. The publication of this short story angered Indonesians especially Muslims because the content of the story was considered to desecrate Islam.

In the story, Ki Pandji Kusmin wrote the return of the Prophet Muhammad to the earth after convincing God that he had a duty to save his people from Hell. Prophet Adam delivered a farewell speech for Muhammad and *Jibril*[43] in the airport of the paradise. On the way to the earth, the plane of the Prophet Muhammad and *Jibril* crashed the Russian's Sputnik. The Prophet and *Jibril* were flung towards the national monument (Monas-*Monumen Nasional*) in the center of Lapangan Merdeka in Jakarta. The imagination of the return of the Prophet

[42] M.C. Ricklefs, *A History of Modern Indonesia* (London: McMillan Press, 1981), 272-280.
[43] In Islam, *Jibril* (called as Gabriel in Christianity) is an angel whose duty is to deliver revelation to the prophets and accompany them while they are spreading the teachings of God to humankind (*umma*)

Muhammad to the earth as written by Ki Pandji Kusmin was considered to disgrace the teaching of Islam.[44] It is strongly believed by Muslims that the Prophet Muhammad would not return to the earth after his death. Muslims only believe the Prophet Isa who would come to the earth to save mankind before the hereafter.

Due to the hostile Muslims' reactions, the North Sumatera Supreme Court decided to abolish the circulation of the magazine. As a result, hundreds of copies of the magazine were confiscated from book stores in Medan.[45] Although the Supreme Court had forbidden the circulation of the magazine, Muslims still marched down the streets and protested in front of the office of *Sastra* Magazine. They believed that the staffs were the PKI's supporters, whose ideology is atheism. Therefore, they have no respect for religion.[46] The Communist syndrome appeared among Muslims because the content of the story seemed to have no respect for Islam. The other famous men of letters in Indonesia like Sori Siregar, Taufiq Ismail, Zakaria M. Passe and Umar Kayam also protested the publication of the story. The Depag blamed H.B. Yassin for insulting of God, the Prophet, the teachings of Islam, the angels, the religious teachers (*kyais*), the *Pancasila* and the 1945 Constitution.[47]

In the court, H.B. Yassin insisted on hiding the real name of the writer. Many speculated that Ki Pandji Kusmin is H.B. Yassin himself because he seemed to make up the story in the court by stating that the writer is a sailor, who always moved from one city to another.[48] His statement is viewed by Muslims as his effort to obscure the writer's identity.

The second case discusses the imprisonment of the editor of the *Monitor* Tabloid, Arswendo Atmowiloto. The *Monitor* tabloid belongs to the *Kompas*

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[44] J.E. Siahaan and H.B. Yassin, "Imadjinasi di Depan Pengadilan," *Horison* 8 (1970): 228-235 and 255.
[45] Rumadi, *Delik Penodaan Agama*, 22.
[46] Ibid., 21.
[47] Siahaan, "Imadjinasi di depan Pengadilan", 228-235.
[48] Rumadi, *Delik Penodaan Agama*, 22.

Gramedia Group. The Muslims' reactions started when Arswendo conducted a survey regarding the most idolized figures of the readers in October 1990. The result surprisingly showed that the Prophet Muhammad ranked eleventh after the editor himself, who ranked tenth in the survey.[49]

Consequently, lots of Muslims protested the result of the survey and prosecuted the *Monitor* tabloid for humiliating the Prophet Muhammad. Islamic organizations such as Muhammadiyah, the MUI, and the Muslim Student Association (HMI-*Himpunan Mahasiswa Islam*) issued official letters asking the government to ban the *Monitor* tabloid.

Shortly after the huge protests, the Minister of Information, Harmoko, cancelled the permit for Arswendo to run the *Monitor* tabloid in October 23rd, 1990 as response to the protests against the tabloid. In addition, the *Kompas Gramedia* group announced that they fired Arswendo from their company and excluded him from the members of the United Indonesian Journalists (PWI-*Persatuan Wartawan Indonesia*).[50]

Arswendo was then accused of disrupting the teaching of Islam. He was prosecuted for his carelessness to have conducted survey in which he did not make clear the criteria for selecting favourite figures that the readers of the *Monitor* tabloid could vote for. Finally, he was imprisoned for five years.

The last case occurred in Situbondo, small regency in East Java. It was Saleh, a young boy, who was charged of blasphemy in 1996. Saleh was a gardener whose job was to clean one of the mosques in Situbondo and to plant vegetables and flowers surrounding the mosque yard. The poor young boy was reported by his neighbour, K.H. Achmad Zaini to have desecrated Islam after he told Zaini that God was an ordinary creature like human beings. He further asserted that K.H. As'ad Syamsul Arifin, the founder of the *Pesantren* "Salafiyah Syafi'iyah"

[49] Ibid., 23.
[50] Ibid., 24.

and one of the leading NU ulamas in Situbondo, passed away in a weird condition.[51]

According to Romly, vice president of the NU branch in Situbondo, the case attracted much attention from the people in the regency after his uncle, KH. Zaini Abdul Aziz announced what Saleh said in *pengajians*[52] and spread letters regarding the defamation of Islam which was committed by Saleh. Muslims in the region soon started to argue regarding Saleh's statements. The local NU's religious scholars held a meeting in response to the public unrest to end the disputes within Muslim community. They concluded that the conflict was solely between Saleh and KH. Zaini Abdul Aziz. Therefore, the local NU's ulamas suggest K.H. Zaini Abdul Aziz to solve the case with a dialogue between him and Saleh without prosecuting Saleh for blasphemy in the local criminal court.[53]

K.H. Zaini Abdul Aziz insisted to prosecute Saleh. As a result, the criminal court in Situbondo organized a session to decide Saleh's case. Thousands of Muslims attended this session and they expected him to be sentenced to death because of blasphemy. The judges of the criminal code decided that Saleh was guilty of desecration of Islam and sentenced to five years in prison.

However, the decision of the court did not satisfy the mass who attended the session. After the court announced that Saleh was guilty, the mass of Muslims violently stoned the police and court officers including judges as they left the court. They even stoned Saleh and some police officers who brought inside the jail. Saleh and some of the police officers were hurt. The mass still demanded to

[51] Ibid., 25. There is no further explanation of the strange condition of the *kyai's* death in the source. It is assumed that Saleh's statement angered Muslims in Situbondo because the *kyai* is very honoured by Muslims in the regency.
[52] *Pengajian* is a learning group, which is usually attended by many Muslims to study the teachings of Islam from a religious teacher. The process of learning is generally listening to what the teacher says and teaches. The number of the people depends on how famous the teacher is. The more famous the teacher, the more people will come.
[53] Rumadi, *Delik Penodaan Agama*, 26-29.

murder Saleh. Fortunately, the police officers helped Saleh to escape from the back door of the prison.[54]

In this chaotic situation, various people served to further provoke the mass. An anonymous person said that Saleh was brought to the *Bukit Sion* church and he further asserted that one of the judges who decided in Saleh's case was a Christian, and therefore he was sentenced only five years in prison. In fact, all three judges, who prosecuted Saleh were Muslims.[55] The angry mass directly headed to and burned down the *Bukit Sion* church. They also destroyed some Christian and Catholic schools. There were at least 24 churches and some schools which were burned and destroyed after Saleh's session in the criminal court.[56]

These three cases show us the evindence of the implementation of the article 156a of the KUHP regarding blasphemy. Most of the cases were started by public prosecution and reaction of Muslims towards the suspects of the cases. Besides, these cases also show the fragility of religious harmony when it deals with the interrelationships between and among religious followers. Muslims' reactions were intense when their mainstream teachings of Islam were desecrated by their fellow Muslims or other followers of other religions.

[54] Ibid., 30.
[55] Ibid., 30.
[56] Ibid., 31-32.

CHAPTER TWO

THE DISPUTE BETWEEN RELIGIOUS AND STATE AUTHORITY IN INDONESIA

This chapter aims to map the dispute between religious and state authority within the framework of the laws against blasphemy in Indonesia. As mentioned in the first chapter, the cases of offense of religion are generally based on individuals' or a group of Muslims' accusation, which was later decided by the judges in the court. Conversely, in this chapter we will see a different type of charges arguably inspired by issuance of a religious opinion (*fatwâ*) which declares that a particular group or sect is deviated. Afterward, the *fatwâ* was followed by Muslims' protest, forcing the government to act upon a heretical group. In addition, this chapter strives to investigate current developments of the implementation of the laws against blasphemy in Indonesia by elaborating the relation between religious and state authority. The discussion of religious authority will focus on the MUI as an 'independent' body of *fatwâ* issuance which plays an important role in determining the criteria of blasphemous attitudes and interpretations regarded to be misleading. Furthermore, the discussion of state authority will focus on the state court and the SKB related to Ahmadiyah, an Islamic group which is considered to desecrate the teachings of Islam. Moreover, this chapter will study the case of Ahmadiyah in details to understand thoroughly the dispute between religious and state authority.

A. Religious and State Authority in Indonesia

The word authority varies and changes over times in accordance with the context where it is defined and which society it attaches to. In general, there are two schools of authority definitions; scholars who define it related to power and charisma. For example, authority in the Webster's English Dictionary means: (1) "an individual or a specialist in a given field who is the source of conclusive statements or testimony and whose opinions deserve acceptance; (2) power to

require and receive submission, the right to expect abide including superiority derived from a status that carries with it, the right to command and give final decisions; and (3) power to influence opinion and thought."[57] The aforementioned definitions are related to power, except for the first definition which is related to charisma. However, Kramer and Schmidtke argue that there is no clear distinction between authority related to power and charisma since religious authority may imply "a number of forms and functions which mean the ability (chance, power, or right) to define correct belief and practice, or orthodoxy and orthopraxy, respectively to shape and influence, marginalize, punish or exclude defiance, heresy and apostasy and their agents and advocates."[58] In addition, Gaborieau perceives religious authority as "the right to impose rules which are deemed to be in consonance with the will of God."[59] Thus, the concept of religious authority covers the people who have the eligibility to speak about Islam (*muftî*) and the rulings for Muslim societies (*fatwâs*).

In "classical" Islam, Humprheys states that religious authority is concerned with the individual *'ulamâ* who has authority to issue a religious opinion (*fatwâ*) about Islamic law with sufficient knowledge of the primary source of Islam (the Quran and the *Hadîth*).[60] Most of the *'ulamâ* referred to commentaries of the Quran and the Prophetic Traditions as the source of Islamic law to deal with sociopolitical problems in the medieval time of Muslim societies.[61] This method allowed them to preserve the identity of their school of law and their legal tradition.[62]

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[57] Philip Babcock Gove et al., eds., *Webster's Third New International Dictionary of the English Language unabridged* (Springfield: Merriam Webster, 1993), 146.
[58] Gurdun Kramer and Sabine Schmidtke, eds., *Speaking for Islam: Religious Authorities in Muslim Societies* (Leiden-Boston: Brill, 2006), 1.
[59] Marc Gaborieau, "The Redefinition of Religious Authority among South Asian Muslim from 1919 to 1956" (paper presented at the final conference of the Dissemination of Religious Authority in 20th Century Indonesia Programme, Bogor, Indonesia, July 7-9, 2005), 1.
[60] Stephen R. Humpreys, *Islamic History: A Framework of Inquiry* (London: I.B. Tauris and Co Ltd., 1991), 187-208.
[61] Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (Berkeley: University of California Press, 1993), 30-36.
[62] Muhammad Qasin Zaman, *The Ulama in Contemporary Islam: Custodian of Change* (Princeton: Princeton University Press, 2002), 38.

As known in Indonesia, religious authority in the late nineteenth century involved individual religious teachers (*kyai*). They are generally affiliated to a *pesantren*[63] producing *fatwâs* either as an answer to a question or as a response to a particular social and political issue.[64] Kaptein defines *fatwâ* as "an opinion on a particular issue from the point of view of Islamic law given by an acknowledged expert(s) known as *muftî*."[65] In addition, Masud conceptualizes it as "a formal legal opinion given by an expert on Islamic law" or as an issue about law and religion based on the question-answer process (*iftâ*).[66] Therefore, in the early Islam in Indonesia *fatwâs* were issued by an independent and individual *muftî*. In issuing *fatwâs*, most of the *'ulamâ* in Indonesia refer to the commentaries of the four main schools of Islamic law.[67]

The nature of *fatwâ* is unbinding. In other words, Muslims can decide whether they obey a *fatwâ* or not. Besides, if they think that a *fatwâ* issued by particular *'ulamâ* is not convincing, they may seek another *fatwâ* from different *muftîs*. However, the *fatwâ* issued by a *kyai* in a *pesantren* is usually obeyed by most of his students (*santris*).

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[63] *Pesantren* or *Pondok Pesantren* is an Islamic boarding school in Indonesia. Its education system is commonly informal, not like public schools, and it is similar to *madrasa* in India and Pakistan in which the students learn the teachings of Islam and live inside it. However, there are two kinds of *pesantren* in Indonesia today. The aforementioned system of education is understood as traditional *pesantren*, while modern one includes secular sciences such as mathematics in addition to Islamic philosophies. The modern *pesantren* generally have formal education such as public schools. For detailed information concerning the educational system of *pesantren*, see Ronald Lukens Bull, "Madrasa by Any Other Name: pondok, pesantren, and Islamic schools in Indonesia and larger Southeast Asian region" *Journal of Indonesian Islam* 4, 1 (2010): 1-21.

[64] Abdul Kader Tayob, "The Role and Identity of Religious Authorities in the Nation State: Egypt, Indonesia and South African Comparison" (paper presented at the final conference of the Dissemination of Religious Authority in 20th Century Indonesia Programme, Bogor, Indonesia, July 7-9, 2005), 15.

[65] Nico J.G. Kaptein and Michael Laffan, "Theme Issues: *Fatwas* in Indonesia", *Islamic Law and Society* 12, 1, (2005): 1-8.

[66] Muhammad Khalid Masud et al., eds., *Islamic Legal Interpretation: Muftis and Their Fatwas* (Massachusetts: Harvard University Press, 1996), 3-32.

[67] Theoretically, the four main schools of Islamic law consist of the Shafi'ite, Hanafi, Hanbali, and Maliki *madhhabs*. Practically, the Shafi'ite school is the dominant factor in determining the decision in fatwa issuance in Indonesia. For the detailed discussion of the dominance of the Shafi'ite School in Southeast Asian, particularly in Indonesia, see Azyumardi Azra, "Islamic Thought: Theory, Concepts and Doctrines in the Context of Sotheast Asian Islam" in *Islam in Southeast Asia: political, social and strategic challenges for the 21st century,* ed. K.S. Nathan and Mohammad Hashim Kamali (Singapore: Institute for Southeast Asian Studies, 2005), 9.

The pattern of *fatwâ* issuance changed in the early twentieth century. In the meantime, *fatwâ* was issued by a group of *'ulamâ*, rather than individual one, who are affiliated to Muslim organizations such as the Nahdlatul Ulama (NU)[68] and the Muhammadiyah.[69] For example, the NU established its ruling body, namely *Bahtsul Masail* in its 18th congress, while the Muhammadiyah founded its ruling body so-called *Majelis Tarjih* in 1927.[70] The committees of the bodies which consist of a number of *'ulamâ* collect questions, select new phenomena in the society and bring them into the discussion in their congresses. The discussion of the questions and answers not only involves *'ulamâ* but also sometimes experts of non-religious fields such as physicians.[71] The results of the discussion in the *Bahtsul Masail* and the *Majelis Tarjih* are compiled in a book under the title *Ahkâm al-Fuqahâ* and *Himpunan Putusan Majelis Tarjih*.[72]

Besides these two bodies, there is the Fatwa Commission (*Komisi Fatwa*) of the Indonesian *'Ulamâ* Council (MUI-*Majelis 'Ulamâ Indonesia*). The MUI is a semi-official institution, established in July 26th, 1975. Unlike the NU and the Muhammadiyah, the establishment of the MUI was initiated by the president Suharto, who invited some prominent *'ulamâ* to form a council whose main duty at that time was to provide advices for the government regarding religious

[68] Nahdlatul Ulama was established in January 31st, 1926. In theology, it follows the concept of *Ahlu al-Sunnah wa al-Jama'ah* as a middle path between extreme rationalists (*aqli*) and scripturalists (*naqli*) which were formulated by Abu Hasan Al-Asy'ari and Abu Mansur Al-Maturidi, while in Islamic law it hold the four *madhhabs* but in practice they mostly use Shafi'ite school. NU is well-known as traditionalist Muslims since they received pre-Islam traditional practices performed by the society as long as they are not in contradiction to Islam. See for more discussion Nadirsyah Hosen, "Nahdlatul Ulama and Collective Ijtihad," *New Zealand Journal of Asian Studies* 6, 1 (2004): 5-26.

[69] Muhammadiyah was founded in November 18th, 1912. In theology, they follow Muhammad Abduh who proposed the purification of the teachings of Islam from un-Islamic practices by the return to the Qur'an and *Sunnah*. Therefore, Muhammadiyah is well-known as modernist Muslims who try to eradicate pre-Islamic traditions. In Islamic law, Muhammadiyah use the four *madhhabs* of *Fiqh* but in practice they mostly hold the Hanbali's school. See for more information Syamsul Anwar, "Fatwâ, Purification, and Dynamization: A Study of Tarjîh in Muhammadiyah," *Islamic Law and Society* 12, 1 (2005): 27-44.

[70] Tayob, "The Role and Identity", 18.

[71] The engagement of expertise is significant to deal with questions or phenomena, related to modern life in which the *ulema* in these bodies may need more information before they issued a fatwa. See for further discussion in Hosen, "Nahdlatul Ulama and Collective Ijtihad", 5-26 and "Revelation in a Modern Nation State: Muhammadiyah and Islamic Legal Reasoning in Indonesia," *the Australian Journal of Asian Law* 4, 3 (2002): 232-258.

[72] Tayob, "The Role and Identity", 20.

matters.[73] This council is directly under the supervision of the Department of Religious Affairs (Depag-*Departemen Agama*). Most of the members of the council are affiliated to Muslims organizations in Indonesia who were graduated from *pesantren* and universities.

Despite the fact that it is continuously funded by the government, the MUI is an independent and non-governmental institution whose chairmen[74] were elected by its members. Its central board is settled in Jakarta. It has branches in some provinces and regencies throughout the Indonesian archipelago.[75]

In his speech for the opening of the council, Suharto expects that the MUI should play four roles: it should (1) serve as the "translator of the concepts and activities of national or local development for the people"; (2) become a form of advisory council that "gives advices and opinions to the government concerning religious life"; (3) become the "mediator between the government and the *ulema*"; and (4) function as a place where the *'ulamâ* discuss "the problems related to the duties of *'ulamâ*."[76] These points were later declared as the missions of MUI. In addition, van Dijk asserts that Suharto's main aim in establishing the council is to persuade and control devout Muslims in order to support his policies in the government.[77]

The position and function of the MUI change in line with sociopolitical condition in the country. The demise of Suharto's regime in 1998 forced the MUI to redefine its position and role in the Muslim society and the state. As a result, the council changed its missions into five points: "(1) the heir to the Prophets in spreading Islamic teachings and striving for the construction of an Islamic life; (2)

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[73] Mochammad Nur Ichwan, "Ulama, State and Politics: Majelis Ulama Indonesia after Suharto," *Islamic Law and Society* 12, 1 (2005): 45-72.
[74] The general chairpersons have been: Haji Abdul Karim Malik Amrullah (Hamka, 1975-1981); K.H. Syukri Ghozali (1981-1984); K.H. Hasan Basri (1984-1990); K.H. Ali Yafie (1990-1999); and M.A. Sahal Mahfudh (1999-present).

[75] Ichwan, "Ulama, State and Politics", 45-72.
[76] Ibid., 45-72.
[77] Cees van Dijk, "Religious Authority, Politics, and Fatwas in Contemporary Southeast Asia," in *Islamic law in Contemporary Indonesia*, eds., R. Michael Feener and Mark E. Cammack (Cambridge: Harvard University Press, 2007), 44-66.

a *fatwâ*-giver for the Muslim community "whether requested or not"; (3) a guide and servant to Muslim community (*umma*); (4) an agent for "reform and renewal; and (5) an upholder of the Quranic dictate to enjoin good and avert evil."[78]

Although having launched its new agenda in post-Suharto period, one of which is to serve the *umma*, rather than being an "advisor" to the government, the council continued to have a prominent role in politics of the state. For example, in the period of B.J. Habibie's presidency (1998-1999), the MUI supported Habibie's run for presidency by issuing a ruling.[79] It is assumed that the reason why the MUI supported Habibie was because he was the successor of Suharto and he had strong relationship with the Association of Muslim Intellectuals (ICMI- *Ikatan Cendikiawan Muslim Indonesia*).[80] Conversely, in Abdurrahman Wahid's (so-called Gus Dur's) period (1999-2001) of presidency the MUI frequently opposed the government policies through their rulings.[81]

One of Gus Dur's criticisms against the MUI was that MUI should have not involved radical Muslim organizations such as the DDII, the FPI, the Communication Forum for the Followers of the *Sunna* and the Community of the Prophet (FKASWJ- *Forum Komunikasi Ahlus Sunnah Wal Jama'ah*),[82] and the

[78] Ichwan, "Ulama, State and Politics", 45-72.
[79] Ibid.
[80] Both the MUI and ICMI were established under the initiation of the president Suharto. ICMI was founded in 1990 by Habibie to fight against poverty and improve Muslims' educations. Habibie became the first chairperson of the association. The establishment of the ICMI was criticized by Muslims since they believe that it is one of Suharto's interests to promote Habibie to be his successor in the presidency. Therefore, it is predictable that the MUI supported Habibie's policy in the government. For more information about the establishment of ICMI, see L. William Liddle, "The Islamic Turn in Indonesia: A Political Explanation," *The Journal of Asian Studies* 55, 3 (August, 1996): 613-634.
[81] It is worth noting that besides fatwa, the MUI also issues other rulings consisting of Recommendation (*Tausiyah*), Admonition (*Tadzkirah*), Instruction/Mandate (*Amanah*), Position Statement (*Pernyataan Sikap*), Appeal (*Himbauan*), or Thought Contribution (*Sumbangan Pemikiran*). The redefinition of its role during Habibie and Gus Dur is reflected in those rulings through which it is obvious to see its attitudes towards the government and the *umma*. See for more detailed of the rulings supporting Habibie and confrontation between MUI and Gus Dur in Ichwan, "Ulama, State and Politics", 45-72.

[82] The FKSWJ was founded by Ja'far Umar Thalib on February 14, 1998. This forum originated from the Community of the Revival of the *Sunna* (Jama'ah Ihya al-Sunnah) which promotes the implementation of *Shari'a*. This forum was actively engaged in the conflict in Moluccas between

Hizbut Tahrir (HTI-*Hizbut Tahrir Indonesia*) in the Fatwa Commission of MUI. The representatives of these groups were officially hired as the MUI's members in 2003.[83] Consequently, the rulings issued by the MUI are conservative. They often deal with Islamic orthodoxy and oppose the ideas of liberalism and pluralism that the moderate and liberal Muslims proposed.[84] For example, the MUI issued the *fatwâs* against heresy which were performed by religious minority groups such as *Ahmadiyah* and *al-Qiyadah al-Islamiyah* followers. In addition, they also gave a *fatwâ* opposing pluralism, secularism, and liberalism.[85]

In addition, Suaedy states that "the nature and the orientation of the MUI's *fatwâ* depend largely on the nature of its members. The MUI always claims that its *fatwâ* are representative of all Indonesian Muslims. In practice, Islamic social organizations are treated equally within the MUI in terms of representation. NU and Muhammadiyah, for example, which each have far more than 25 million members, are given the same representation as are the FPI, the FUI, and the HTI, which may only have a few hundred thousand supporters."[86] In addition, the MUI's *fatwâs* in Indonesia "have reflected radical Islamic views more than the perspectives of moderate Muslim organizations, such as the NU and Muhammadiyah."[87]

Muslims and Christians. For more information about its establishment and involvement in the conflict in Moluccas, see Noorhaidi Hasan, "Faith and Politics: The Rise of the Laskar Jihad in the Era of Transition in Indonesia," *Indonesia* 73 (2002): 145-169, and "Between Transnational Interest and Domestic Politics: Understanding Middle Eastern *Fatwâs* on Jihad in the Moluccas," *Islamic Law and Society* 12, 1 (2005): 73-92.

[83] Piers Gillespie, "Current Issues in Indonesian Islam: Analysing the 2005 Council of Indonesian *Ulama* Fatwa no. 7 Opposing Pluralism, Liberalism and Secularism," *Journal of Islamic Studies* 18, 2 (2007): 210-213.

[84] Ichwan, "Ulama, State and Politics", 45-72.

[85] Piers Gillespie, "Current Issues in Indonesian Islam", 202-240.

[86] Ahmad Suaedy, "Religious Freedom and Violence in Indonesia" in *Islam in Contention: Rethinking Islam and State in Indonesia*, eds. Ota Atsushi, Okamoto Masaaki, and Ahmad Suaedy (Jakarta Selatan: Wahid Institute; Kyoto: Center for Southeast Asian Studies/CSEAS; Taipei, Center for Asia-Pasific Area Studies/CAPAS, 2010), 139-142; and Ross H. McLoed, "Survey of Recent Development" in *Bulletin of Indonesian Economic Studies* 44, 2 (2008), 147.

[87] Ibid.

Besides the engagement of the radical Muslim groups, there are at least two theories describing the reasons of the radicalization of the MUI's rulings. According to Gillespie, the failure of the new governments to control and develop all sectors of national life triggered distrust towards government policies, particularly in dealing with deviant sects. Therefore, most of Muslims tend to consider the MUI as a body which can deal with the problems which are faced by the *umma*. [88] Besides, freedom of expression which becomes one of the agendas of *reformasi* era has provided opportunity for "Political Islam", specifically radical Muslim organizations to play their role in social and political sector, and to express their ideas, such as the demand of the implementation of *Shari'a* and the establishment of an Islamic State.[89] As a matter of fact, "Political Islam" was marginalized and repressed in the New Order era, emphasizing *Pancasila* as the sole ideology in the country.[90]

Like the NU and Muhammadiyah, the MUI also use collective *ijtihâd* in issuing a *fatwâ*. This *ijtihâd* generally begins with the quotation of the verses of the Qur'an and *Hadîth* (s) which is related to the questions of the *mustaftî*. In addition to the Qur'an and *Sunna*, most of the *fatwâs* refer to *ijmâ'* and *qiyâs* in which the MUI quote some commentaries of *fiqh* scholars concerning the cases that they discuss in a *fatwâ*.[91] Furthermore, the MUI's *fatwâs* against heretical groups[92] were formulated in accordance with the levels of *ijtihâd* which begin with the quotation of some verses of the Qur'an, *Hadîth* (s) and *fiqh* discussion, most of which are quoted from the Shâfi'î scholars.

Due to the emergence of religious groups in society, the MUI defines the criteria of heresy in its *fatwâ* regarding a religious sect, al-Qiyadah al-Islamiyah.

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[88] Piers Gillespie, "Current Issues in Indonesian Islam", 203.
[89] Noorhaidi Hasan, "*Reformasi*, Religious Diversity, and Islamic Radicalism after Suharto," *Journal of Indonesian Sciences and Humanities* 1 (2008): 23-51.
[90] Noorhaidi Hasan, "September 11 and Islamic Militancy in Post-New Order Indonesia," in *Islam in Southeast Asia: Political, Social and Strategic Challenges for the 21st Century*, ed. K.S. Nathan and Mohammad Hashim Kamali (Singapore: Institute of Southeast Asian Studies, 2005), 307.
[91] Ichwan, "Ulama, State and Politics", 45-72.
[92] For the compilation of the MUI's *fatwâs* regarding heretical groups, see Majelis Ulama Indonesian, *Mengawal Aqidah Umat: Fatwa MUI tentang Aliran-Aliran Sesat di Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, 1997).

There are ten criteria of heretical groups: (1) denying one of the pillars of faith (*îmân*) and Islam[93] or following a belief which is not in line with the Qur'an and *Sunna*, (2) believing in the revelation after the Qur'an, (3) denying the miracle and the authenticity of the Qur'an, (4) making interpretations of the Qur'an which are not based on the rules of interpretation in Islam, (5) denying *Hadîth* as one of the main sources of the teachings of Islam, (6) insulting or disrespecting of the Prophets and Messengers in Islam, (7) denying the Prophet Muhammad as the final prophet and messenger in Islam, (8) changing Islamic rituals which were determined by *Shari'a*, such as prayer with Indonesian language, (9) changing the number of daily prayers, and (10) considering a fellow Muslim as an infidel without reasons which are based on Islamic law.[94]

In terms of the influence of the MUI's *fatwâs*, Mudzhar states that "in general it can be said that the *fatwâs* of the MUI have been products of certain socio-cultural and sociopolitical settings in which government policy is a part. However, the degree of the impact of the *fatwâs* on society corresponds neither negatively or positively with the governmental influence. The *fatwâ* on the lawfulness of the use of IUDs in family planning which was strongly influenced by government policy may have had as much impact as did the *fatwâ* on Muslim's attendance at Christmas celebration, which was free from governmental influence or even opposed to government policy."[95]

In Indonesia, the discussion of religious authority cannot be separated from the state authority when it deals with the heretical groups. In the case of blasphemy, the state authority refers to government. It is important to mention that

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[93] The pillars of faith in Islam consist of belief in God, belief in the angels, belief in the revealed books, belief in the commissioned messangers, belief in the ressurection and the events of hereafter, belief in the predestination by God of all things, both the (seemingly) good and the (seemingly) bad. There are five pillars of Islam: (1) the *shahâda* (creed), (2) daily prayers (*salât*), (3) fasting during the month of Ramadân, (4) almsgiving (*zakât*), and (5) the pilgrimage to Mecca (*Hajj*).

[94] Nurdjana, *Hukum dan Aliran Kepercayaan Menyimpang di Indonesia* (Yogyakarta: Pustaka Pelajar, 2009), 25-26.

[95] M. Atho Mudzhar as quoted by Nadirsyah Hosen, "Fatwa and Politics in Indonesia" in *Shari'a and Politics in Modern Indonesia*, ed. Arskal Salim and Azyumardi Azra (Singapore: Institute of Southeast Asian Studies, 2003), 176.

Indonesia is one of the countries which adopts the system of separation of powers or *trias politica* in which the government is divided into three main bodies: executive, legislative and judiciary.[96] The State authority in relation to the implementation of the laws against blasphemy should be viewed in a holistic picture of *trias politica*, since all the bodies in the government have a prominent role in maintaining and enforcing the laws. As mentioned in the first chapter, the MPR approved the 1965 Presidential Decree to be a law number 1/PNPS/1965 and to include it into the article 156a of the KUHP in 1969. The executive is responsible for issuing an SKB and a decree regarding a deviated religious group. The judges in the court are in charge of deciding the cases of blasphemy which were either conducted by an individual or some members of a religious group or an organization.

Most of the cases of blasphemous attitudes in post-Suharto Indonesia began with the issuance of a *fatwâ* of the MUI which decided that a particular religious group is misleading. This *fatwâ* was followed by public prosecution towards the heretical group which leads the case to be brought to the state court. The leaders and some members of the heretical group were later sentenced based on the article 156a of the KUHP. Of the leaders of the heretical groups which were proven to be guilty are Yusman Roy who includes Indonesian translation in the recitations of prayer, Lia Aminuddin, the leader of God's Kingdom of Eden or known also as *Salamullah* who admits as an angel, *Jibrîl*, and Ahmad Mushaddeq, the 'prophet' of al-Qiyadah al-Islamiyah.[97]

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[96] The executive which consists of president and his cabinets is responsible for making certain that laws and decisions are put into action. The legislative which includes the DPR and the MPR is in charge of making and approving laws, whereas the judiciary which contains all the judges of the country's courts of law is responsible for its legal system and dealing with the violation of laws. For more information of the adoption of *trias politica* in Indonesia, see Romi Librayanto, *Trias Politica dalam Struktur Ketatanegaraan Indonesia* (Makassar: Pusat Kajian Politik, Demokrasi dan Perubahan Sosial/PuKAP, 2008).

[97] Surya Arifin Nugraha et. al., *Aliran-Aliran Sesat di Indonesia* (Yogyakarta: Banyu Media, 2007).

The government occasionally employs the law number 1/PNPS/1965, instead of the article 156a of the KUHP to cope with a heretical group. For example, the government does not act upon Ahmadiyah with the article 156a of the KUHP even though the MUI has declared that Ahmadiyah is deviated and accused of blasphemy. Conversely, the government issues the SKB for the case of Ahmadiyah which refers to the law number 1/PNPS/1965.

In conclusion, the discussion of the dispute between religious and state authorities concerning blasphemy in Indonesia after *reformasi* indicates strong relationship between the MUI and the government. The MUI as an 'independent' institution which functions as a 'guide and servant of the *umma*' indirectly influences the government policy through its *fatwâs* regarding heretical religious sects. The government arguably acts upon heretical sects in accordance with the responses of the Muslim communities towards the *fatwâs* of the MUI.

B. Cursing the Sacred: the Case of Ahmadiyah

Ahmadiyah is a religious movement founded by Mîrzâ Ghulâm Ahmad[98] in 1889 in Qadiyan, a village of the Punjab, India.[99] The establishment of Ahmadiyah occurred when Ghulâm Ahmad declared that he was "the promised Messiah (*al-masîh al-mau'ûd*) of the Christians, a prophet and the Mahdî for the Muslims,[100] and the return of Krishna."[101] His announcement had infuriated religious communities in India, particularly the mainstream Muslims because the doctrines of Ahmadiyah confront the widely beliefs of Muslim communities in India. As a result, the *'ulamâ* of the mainstream Sunni Muslims in India issued

[98] Fisher states that "Mîrzâ Ghulâm Ahmad was born about 1935 in Qadian. He was not a success in government service or as a man of affairs, and finally devoted himself entirely to religious study and controversy". See Humphrey J. Fisher, *Ahmadiyyah: A Study in Contemporary Islâm on the West African Coast* (London: Oxford University Press, 1963), x.
[99] Syafi R. Batuah, *Ahmadiyah: Apa dan Mengapa?* (Jakarta: Jemaat Ahmadiyah Indonesia, 1993), 3. There is some sources which state that Ahmadiyah was established in 1890. See, for example, Margaret Blood, "the Ahmadiyah in Indonesia: Its Early History and Contribution to Islam in the Archipelago" (Honours Sub-thesis, the Australian National University, 1974), 9.
[100] Ibid. Imâm Mahdî or al-Mahdî, "the rightly guided one" is widely believed by Muslims as "the name of the restrorer of religion and justice who will rule before the end of the world (*qiyâma*). For more detailed information about al-Mahdî, see W. Madelung, "al-Mahdî" in *Encyclopaedia of Islam*, ed. C. E. Bosworth, E. et. al., (Leiden, E. J. Brill, 1986), 1230-1238.
[101] Fisher, *Ahmadiyyah*, x.

their *fatwâs* pronouncing that Ahmadiyah is heretic. Due to the huge disagreement of the majority Muslims in India towards the doctrines of Ahmadiyah, the small Ahmadiyah community began to perform prayer separately in their own mosque.[102]

In addition, Ghulâm Ahmad announced that "the Prophet Isa (Christians call as Jesus Christ) was dead and *Jihâd* was to be waged only by peaceful means."[103] These beliefs are in sharp contrast to the beliefs of the majority of Muslims who confirm that the Prophet Isa is alive in the heavens and *Jihâd* can be undertaken by warfare when it is needed. Blood states that in his missionary agendas, Ghulâm Ahmad is "anti-Christianity sentiments" through which in many occasions he challenged some Christian priests in the debates about Jesus Christ.[104] However, Ahmadiyah adopted the way of the Christian missionaries to convert indigenous to their religion through distributing publications as propaganda. Friedmann asserts that Ghulâm Ahmad, his successors and other leading members of Ahmadiyah disseminated their doctrines through publications of number of books, pamphlets and articles "to explain the Ahmadî world view and to propagate the Ahmadî articles of faith."[105] It is strongly believed by most of the Muslims who oppose Ahmadiyah in India that Ahmadiyah was supported by the British Authorities in India to weaken Muslims role in politics and lead them to devote more their concerns to "internal religious dissension."[106] This claim derived from Ghulam Ahmad's statement that suggests "the people of each country must honestly cooperate with their respective government."[107]

After the death of Ghulâm Ahmad in 1908, Ahmadiyah was led by Nûr al-Dîn who died in 1914.[108] The majority of the members of Ahmadiyah "elected Mahmûd Ahmad, son of the founder of the movement, as his second successor,"

[102] Blood, "the Ahmadiyah in Indonesia", 9.
[103] Garstin W. A. as quoted in Blood, "the Ahmadiyah in Indonesia", 9.
[104] Blood, "the Ahmadiyah in Indonesia", 10.
[105] Yohanan Friedmann, *Prophecy Continuous: Aspect of Ahmadî, Religious Thought, and Its Medieval Background* (London: University of California Press, 1989), 1. See also Ibid., 10.
[106] Brush as quoted in Blood, "the Ahmadiyah in Indonesia", 11.
[107] Ghulâm Ahmad as quoted by Blood, "the Ahmadiyah in Indonesia", 12.
[108] Fisher, *Ahmadiyyah*, x.

whereas the minority refused Mahmûd Ahmad as the successor. This minority group of Ahmadiyah decided to leave Qadian for Lahore.[109] According to Stanton, the minority split because they do not agree with Ghulâm Ahmad's political thought that they are to be loyal to the colonial powers in India. They later founded the Lahore School of Ahmadiyah. This group of Ahmadiyah was organized by Maulâna Muhammad 'Alî and Kwâja Kamâl al-Dîn. This new school of Ahmadiyah is later known as the Lahore Ahmadiyah.[110]

On the contrary, the Lahore school denies the controversial doctrines of Ahmadiyah. They view Ghulâm Ahmad is a "reformer" (*mujaddid*) of Islam and a "man who is spoken to" by God, rather than a prophet.[111] Moreover, Ahmad and Grunebaum state that what they maintain of Ghulâm Ahmad's doctrines is only his "militantly anti-Christian sentiments."[112] The Lahore Ahmadiyah since then has kept apart from the Qadian and these two schools of Ahmadiyah continue to "maintain their hostile attitudes that were apparent even before their representatives went to Indonesia.[113]

According to some sources, the reliable information of the introduction of both Ahmadiyah movements to Indonesia is rarely available. Federspiel states that Ahmadiyah first arrived in Indonesia coincide with the return of some Sumatran students who studied in the Ahmadiyah schools in India in the late nineteenth century.[114] However, this statement is questioned by some scholars, since the movement itself was established in the same period of the return of the students. Hamka, on the other hand, asserts that the introduction of the movement to the

[109] Ibid.
[110] Stanton as quoted by Blood, "the Ahmadiyah in Indonesia", 13.
[111] Herman L. Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya" *Bijdragen tot de taal-, Land- en Volkenkunde* 161, 2-3 (2005): 210-246.
[112] Ahmad and Grunebaum as quoted by Blood, "the Ahmadiyah in Indonesia", 13.
[113] Ibid.
[114] H. M. Federspiel as quoted by Iskandar Zukarnain, *Gerakan Ahmadiyah di Indonesia* (Yogyakarta: L*kiS*, 2005), 169 and Blood, "the Ahmadiyah in Indonesia", 17.

archipelago was "through magazines and books published overseas" which was read by some Muslims in Indonesia.[115]

The later article of *Tempo* in September 21st, 1974 informs that the Qadian Ahmadiyah was introduced in Indonesia by three Sumatran students who travelled to India in 1922. They first intended to learn about Islam in Egypt which became the centre of Islamic studies at that time. Their teacher, Labai al-Yunusiyah, however, suggests them to study Islam in India because it was as good as in the Middle East.[116] The three students "who were all former disciples of the Sumatra Thawâlib[117] schools" consist of Abu Bakar Ayub, Ahmad Nuruddin, and Zaini Dahlan. The three students first arrived in Lahore and learned about Islam in the Lahore Ahmadiyah schools. Afterwards, they decided to move to Qadian which became the origin of the Ahmadiyah movement in which they were impressed by the teaching methods of the Qadian schools. Shortly after their arrival in Qadian, they swore allegiance (*bai'â*) to the Qadian leader, Hadlrât Khalîfa al-Masîh II Mîrzâ Basyîr al-Dîn Mahmûd Ahmad to become the followers of the Qadian Ahmadiyah. During their stay in Qadian, they informed Muslims in Sumatra in their letters about their impressions[118] and urged some students in the Sumatra Thawâlib schools to come and study in Qadian. As a result, according to Khalimi there are 23 who joined studying Islam in the Qadian schools and became the members of the Qadian Ahmadiyah.[119]

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[115] Hamka as quoted in ibid.
[116] Zukarnain, *Gerakan Ahmadiyah di Indonesia,* 170; and Blood, "the Ahmadiyah in Indonesia", 18.
[117] Sumatra Thawâlib is a social organization which was founded in 1918 in Padang Panjang. In its establishment, this organization which devotes their efforts to Islamic education was directed by Haji Jalaludin Thaib. See Sudiyono, "Sumatra Thawalib" *Ensiklopedi Nasional Indonesia* 15 (Jakarta: PT. Cipta Adi Pustaka, 1991), 373-374.
[118] Besides impressed by the teaching methods of the Qadian school, the three students said that the educational cost in the Qadian was not expensive and there were additional financial support from the school for those who needed it. See Blood, "the Ahmadiyah in Indonesia", 18 and Zukarnain, *Gerakan Ahmadiyah di Indonesia,*174.
[119] Khalimi, *Ormas-Ormas Islam: Sejarah, Akar Teologi dan Politik* (Jakarta: Gedung Persada Press, 2010), 11.

The Indonesian students who studied in the Qadian schools asked the second caliphate, Mahmûd Ahmad, to visit Indonesia.[120] The caliphate responded the invitation by sending his representative, Maulânâ Rahmat 'Alî[121] as a missionary (*muballigh*) to travel to Sumatra and Java. Before traveling to Sumatra, he studied Indonesian language to Indonesian students in Qadian.[122]

Rahmat 'Alî arrived in Tapaktuan, Aceh on August 1925. During his stay in Aceh, he lived in Muhammad Samin's house, an Acehnese student who studied in the Qadian school. He was successful to recruit some new followers of the Qadian Ahmadiyah in Aceh, such as Abdul Rahman, Muhammad Syam, and Mahdi Sutan Singasoro.[123] Afterwards, he continued his journey and arrived in Padang, West Sumatera in 1926. Blood states that "soon after his arrival in (West) Sumatra, a public meeting was held where he spoke with the aid of one of his Sumatran students as an interpreter."[124] Blood assumes that he explained the doctrines of the Qadian Ahmadiyah to Muslims in the region. Moreover, Blood asserts that "Muslims who followed traditional Islamic teachings were apparently shocked by the doctrinal deviations of the Qadian, particularly the belief in Mîrzâ Ghulâm Ahmad as a prophet and in the death of Jesus Christ."[125] For example, two of the teachers in the Sumatran Thawâlib school, Muhammad Isa and Ahmad Syukur, firmly opposed the Qadian teachings.[126]

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[120] According to Zulkarnain, the request was delivered by Haji Mahmud as the representative of the Indonesian students to the caliphate in a meeting among the leaders of the Qadian Ahmadiyah which was held in the end of 1924 after the caliphate just returned from London. There were 19 Indonesian students who were invited in this meeting including Abu Bakar Ayub, Ahmad Nuruddin, and Zaini Dahlan who later became the leaders of the Qadian Ahmadiyah in Indonesia. See Zukarnain, *Gerakan Ahmadiyah di Indonesia,*174.

[121] Rahmat 'Alî was born in 1893 in Qadian. He was graduated from the Qadian school and then became an Arabic teacher and Islamic studies before promoted to the department of missionary (*Nizârat al-Da'wah wa al-Tablîgh*). See ibid., 175.

[122] Zukarnain, *Gerakan Ahmadiyah di Indonesia,*174.

[123] Ibid.,177.

[124] Blood, "the Ahmadiyah in Indonesia", 20.

[125] Ibid.

[126] Ibid. The opposition of Muslims was actually obvious since the students had informed some Muslims in their letters home regairding the teachings of the Qadian Ahmadiyah, particularly those who studied in the Sumatran Thawâlib

Although most of the *'ulamâ* in West Sumatera opposed the doctrines of the Qadian Ahamdiyah, there were some Muslims who were interested to join the movement.[127] Shortly after its missionaries' arrival, the Qadian Ahmadiyah announced to be an organization of the *Jama'ah Ahmadiyah Indonesian* (JAI) in 1926. In its early establishment, the JAI consisted of 15 members including Muhammad Taher Sutan Maradjo, Daud Gelar Bangso Diradjo, Pakih Isa, and Bagindo Syarif. This organization expanded their movement in Aceh and Palembang.[128] Rahmat 'Alî went to Java to continue his agendas in 1931. He however did not visit Yogyakarta because there was other *muballigh* (s) from the Lahore Ahmadiyah.[129]

Unlike the Qadian Ahmadiyah, the coming of the Lahore Ahmadiyah in Yogyakarta at the end of March 1924 prior to the Qadian (in 1925) was prominently initiated by its two missionaries, Mîrzâ Walî Ahmad Baig and Maulânâ Ahmad. The background of their arrival in Yogyakarta was unclear. Although there were some Indonesian students who studied in Lahore, there was no information regarding the coming of the missionaries from Lahore to Java. According to Beck, the most reasonable motive of their coming is their efforts to prevent Christianization in Java.[130]

The history of the Lahore Ahmadiyah in Indonesia cannot be separated from the Muhammadiyah. As known, some members of the Muhammadiyah were interested in the Lahore's 'fight' against the dissemination of Christianity in Yogyakarta. Besides, there are some similarities between the Muhammadiyah and the Lahore school. Beck asserts that "indeed, both organizations wanted to prove Islam to be a religion compatible with modernity, with its stress on rationality, science, and technology. To that end, both organizations devoted a great deal of attention to the central role of the principle of *ijtihâd* in Muslim thinking and to the question of the extent to which Western education and Western educational

[127] Ibid., 21.
[128] Zukarnain, *Gerakan Ahmadiyah di Indonesia,* 256.
[129] Khalimi, *Ormas-Ormas Islam*, 11-12.
[130] Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 220-221 and Zukarnain, *Gerakan Ahmadiyah di Indonesia,* 181.

methods at Muslim educational institutions. The two organizations shared the defensive understanding of *jihâd* which concept was primarily seen as a spiritual effort. The two organizations also had in common their aim to purify Islam by opposing various innovations and superstitions which had crept into the religion and which were held responsible for the backwardness of the Muslim world."[131]

The two Lahore's *muballigh* (s) were invited and given opportunity to present their lectures in the 13th Congress of the Muhammadiyah which was held in Yogyakarta from March 28th to April 1st, 1924. In his remark, Djojosoegito, the first secretary of the organization, states that he was impressed by the "the efforts of the Ahmadiyah" who successfully spread Islam in the West. He even named the Ahmadiyah as "a sister association of the Muhammadiyah". Furthermore, he conveys that his organization intended to cooperate with the Lahore Ahmadiyah. Ahmad Baig also involved in the 14th Congress of the Muhammadiyah which took place from 12-17 March, 1925. However, another *muballigh* returned to Lahore "for health reason" on June 5th, 1924.[132]

The close relationship between the Lahore and the Muhammadiyah came to an end when Haji Rasul visited Yogyakarta. Haji Rasul, the founder of the Sumatran Thawâlib school, arrived in Yogyakarta "after the 14th Congress of the Muhammadiyah."[133] He encountered Mîrzâ Walî Ahmad Baig when he was introduced by Marah Intan, "his fellow villager who was living in Yogyakarta and who was a Muhammadiyah member", to Fachruddin and other Muhammaiyah leaders. Haji Rasul debated Ahmad Baig regarding the teachings of the Lahore Ahmadiyah. According to Hamka, "it was his father, Haji Rasul, who had opened the eyes of the Muhammadiyah leaders regarding the deviations of the Ahmadiyah. This debate was the beginning of the exclusion of the two

[131] Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 221.
[132] Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 225-226 and Zukarnain, *Gerakan Ahmadiyah di Indonesia,* 181-183.
[133] Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 230.

Muhammadiyah leaders who had been greatly influenced by the Ahmadiyah, namely Djojo soegito and Mohammad Husni (in 1926)."[134]

However, Beck explains that there are no sources which can support Hamka's opinion. Conversely, he reveals that there is some evidence which proves the weakness of Hamka's opinion. For instance, "the sympathetic articles on the (Lahore) Ahmadiyah still contained in the *Almanak Moehammadijah*, the Muhammadiyah yearbook of the year 1345/1926-1927, (Lahore) Ahmadiyah publications were still printed and published by the Muhammadiyah printing house Taman Pustaka, and the Muhammadiyah and the (Lahore) Ahmadiyah still presented a united front to the Christian missionaries and the Dutch government in Yogyakarta."[135] However, what is certain in this case is that Haji Rasul became the real opponent of both of the Ahmadiyah movements.[136]

Nevertheless, Hamka's opinion could be the starting point of the crack of the relationship between the Muhammadiyah and the Lahore Ahmadiyah. The denial of the Lahore Ahmadiyah in the Muhammadiyah was not visible until the Muhammadiyah held its 18th Congress in Solo in 1929.[137] The Majlis Tarjih of the Muhammadiyah, a body which is in charge of issuing *fatwâ*, declared that the Ahmadiyah doctrinal beliefs were forbidden and the members of the Muhammadiyah who followed them were regarded to be apostates.[138]

Although the *fatwâ* specifically addressed to the group of the Ahmadiyah which believe in a prophet after Muhammad, the reaction of some members of the Muhammadiyah towards the Lahore Ahamdiyah was evident. Beck states that "the archives of the Muhammadiyah's secretariat in the house of Mohammed

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[134] Hamka as quoted in ibid., 231.
[135] Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 231.
[136] Ibid., 233.
[137] There are some motives of the prohibtion to follow the Lahore Ahmadiyah doctrines before the *fatwâ* against the Ahmadiyah whithin the Muhmmadiyah circles. See for more information Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 233-136 and Zukarnain, *Gerakan Ahmadiyah di Indonesia,* 188-193.
[138] Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 236. For the *fatwâ* see Pimpinan Pusat Muhammadiyah, *Himpunan Putusan Tarjih* (Yogyakarta: Pimpinan Pusat Muhammadiyah, 1976), 280-281.

Husni were abruptly removed. Ahmad Baig and his students were directed objects of ridicule and insult. Djojosoegito, who had become the chairman of the Muhammadiyah branch in Purwokerto in Central Java, was discharged and at the same time deprived of his function in the central board. Other Muhammadiyah members sympathizing with or adhering to the teachings of the Ahmadiyah were exposed to the same kind of treatment."[139]

In this situation, Djojosoegito asked Ahmad Baig for permission to establish the branch of the Lahore Ahmadiyah in Indonesia. Ahmad Baig approved Djojosoegito's request. Therefore, the branch of the Lahore Ahmadiyah was founded under the name of the Indonesian Ahmadiyah Movement (GAI-*Gerakan Ahmadiyah Indonesia*) on December 1928.[140] The movement was then officially admitted by the government as an association based on "governmental decree" on April 1930. "Djojosoegito was appointed as the chairman of the movement, Muhammad Husni as its first secretary, and Erfan Dahlan as a member of its board." Ahmad Baig became its adviser of the movement until he left Indonesia in 1936. Beck argues that there is no significant opposition towards the GAI after its declaration as an "autonomous association" in the archipelago. He assumes that the different belief in Ghulâm Ahmad as *mujaddid*, rather than a prophet became the main reason of Muslims to tolerate the presence of the GAI. Moreover, since its establishment, the GAI only had few followers. Therefore, it was not regarded as a competitor by the Muhammadiyah.[141]

On the contrary to the Lahore, the Qadian Ahmadiyah was continuously attacked by *'ulamâ* in Sumatra. This attack resulted in the split of the adherents of the Qadian Ahmadiyah from the majority Muslims in West Sumatra. Syeikh Abdullah Ahmad, one of the *'ulamâ* in West Sumatra wrote a book which contains the "heresies" of the Ahmadiyah. In addition, Haji Rasul, published a

[139] Beck, "the Rupture Between the Muhammadiyah and the Ahmadiyya", 236-237.
[140] Actually the initiation of establishing the branch of the Lahore Ahmadiyah in Indonesia had been proposed by Djojosoegito in 1926. However, at that time Ahmad Baig did not agree and decided to focus on their missions to counter christianization in Java. See ibid., 233.
[141] Ibid., 237-239.

book *al-Qaul al-Shahîh* (the True Word)[142] to explicate the deviations of the Qadian Ahmadiyah. Rahmat 'Alî, one of the missionaries of the Qadian Ahmadiyah, responded the attack by publishing *Iqbâl al-Haqq* (the Coming of Truth) which elaborates the teachings of the Ahmadiyah.[143] Most of the confrontation of the *'ulamâ* in Sumatra towards the Ahmadiyah was in the form of written documents, such as books and pamphlets.

When arriving in Java in 1931, Rahmat 'Alî spread the Qadian doctrines in West Java and Jakarta. Likewise, the *'ulamâ* in West Java also disagree with the doctrines of the Ahmadiyah. Ahmad Hasan, one of the prominent *'ulamâ* of the Unity of Islam (Persis-*Persatuan Islam*) challenged Rahmat 'Alî in an open debate whose main themes were concerned with the admission of Ghulâm Ahmad as a prophet and the death of Jesus Christ. Rahmat 'Alî accompanied by other members of the JAI such as Abu Bakar Ayub and Mohammad Sodik accepted the challenge. The debate took place in Bandung on April 1933 and was attended by thousands of people. The second debate was held in Batavia (now Jakarta) on September in the same year as the first debate. In these debates, both parties, Ahmad Hasan and the Ahmadiyah, insisted in their beliefs and the debate ended without solution. The JAI, albeit the opposition of the *'ulamâ* in Java, could attract some Muslims in West Java and Jakarta to follow their organization.[144]

The NU, known as "a movement of traditionalist *'ulamâ",* was aware of the heresies of the Ahmadiyah. However, they did not aggressively attack the Ahmadiyah. Their effort was to prevent the expansion of the Ahmadiyah, particularly their communities in Java. A number of articles and books containing the heresies of the Ahamdiyah were published in Java during the years 1936 to 1937. The *Panji Masyarakat* of Batavia and the *Pedoman Masyarakat* of Medan,

[142] Haji Rasul's book regarding the heresies of the Ahmadiyah was also published in Yogyakarta in 1926. The aim is obviously to warn Muslims, particularly Muhammadiyah members the threat of the Ahmadiyah. See Beck, "The Rupture of the Muhammadiyah with the Ahmadiyah", 233.
[143] The pressure towards the Qadian Ahmadiyah continued and spread out "from Aceh to West Sumatra". Consequently, Rahmat 'Alî left for Batavia expecting that he would be warmly accepted in Java. See Blood, "the Ahmadiyah in Indonesia", 23.
[144] Zulkarnain, *Gerakan Ahmadiyah di Indonesia*, 257.

for instance, strongly rebutted the Ahmadiyah teachings in 1936. Abu bakar Ayub reacted by publishing the *Bantahan Lengkap* to counter the attack in the abovementioned publications.[145]

Although the Ahmadiyah was opposed by most of *'ulamâ* in the archipelago, the government of the Netherlands East Indies (now Indonesia) did not ban the organization.[146] Zulkarnain assumes that the concept of *jihâd* of the Ahmadiyah was not viewed as a threat by the Dutch government to their power. As mentioned above, the Ahmadiyah believes that *jihâd* should not be undertaken with war, but it should be conducted with a peaceful ways, such writing a book and *da'wa*. Moreover, its second caliphate, Mahmûd Ahmad asserts that a person should be loyal to his government because it is ordered by God in the Qur'an.[147]

After the Independence of Indonesia in 1945 and during the Old Oder period, there is scarcely source which discusses the confrontation of Muslims towards the JAI and the GAI. Did this phenomenon occur because the Indonesian people devoted their efforts to defend the independence of Indonesia from the occupation of the Dutch or because Muslims see syncretistic cults are more dangerous to Islam than the Ahmadiyah? As it is known that the 1965 Presidential Decree coped with the cults, rather than the Ahmadiyah.

The refusal of the JAI re-emerged in the New Order era. In its second national congress in 1980,[148] the MUI issued a *fatwâ*[149] which declared that the members of the JAI are 'unbelievers' because they believe that there is a prophet after Muhammad. Mudzhar opines that this *fatwâ* was specifically addressed to

[145] Blood, *The Ahmadiyah in Indonesia*, 35.
[146] The Dutch government intensively watched and supressed all organizations in Indonesia in order not to involve in politics. If there is an organization which involve in politics or in the struggle of Indonesian independence, it would be banned and its leaders would be arrested.
[147] Zulkarnain, *Gerakan Ahmadiyah di Indonesia*, 260.
[148] There is a different information about when the *fatwâ* regarding the JAI was issued. Some sources state that it was issued in the second national congress of the MUI in 1980 and some asserts that it was formulated in 1984. See, for example, Beck, "the Rupture of the Muhammadiyah with the Ahmadiyya", 239.
[149] Actually before the MUI issued its *fatwâ*, the Muslim World League announced through its religious opinion that the Ahmadiyah teachings were deviated, and called all Muslims in the world for the ban of the activities in their countries. As a result, 'Muslim' countries, such as Pakistan, Malaysia, and Brunei Darussalam abolished the Ahmadiyah movement. See Beck and Khalimi.

the JAI.[150] In 1984, the Director General of the Depag for Muslim Affairs and Hajj issued a circulation letter (*surat edaran*) which stipulates that the Ahmadiyah is "dangerous for the State" and desecrates religion. This letter, according to Khalimi, was based on the recommendation of the MUI in its *fatwâ*.[151]

However, the reaction towards the *fatwâ* and the decision letter of Depag was unknown until the decline of the New Order regime in 1998. In the *reformasi* era, the pressure against the Ahmadiyah was announced by the regent of West Lombok through a decision letter (*surat keputusan*) in 2001. He prohibited the activities of the Ahmadiyah followers in his region. A year later, the Institute of Research and Islamic Studies (LPPI-*Lembaga Penelitian dan Pengkajian Islam*) conducted a seminar regarding Ahmadiyah doctrines which was organized by Amin Jamaluddin in the al-Azhar mosque. The result of the seminar concludes that the Ahmadiyah has disgraced the fundamental teachings of Islam. This seminar was also followed by a training of anti-Ahmadiyah movements conducted by the LPPI and attended by a representative of Saudi Arabia embassy.[152]

In addition, the ban of the Ahmadiyah activities in West Lombok inspired the regent of Kuningan to restrain the Ahmadiyah movement in Kuning, West Java which has been widely spread in the region, particularly in Manis Lor. There were many books and articles which were intensively published to attack the Ahmadiyah doctrines in the early twentieth first century. The Sabili, the magazine of the Council of Islamic Propagation of Indonesia (DDII-*Dewan Dakwah Islam Indonesia*), was actively involved in elaborating the heresies of the Ahmadiyah.[153]

Due to heated debates regarding the Ahmadiyah, the MUI for the second time reformulated a *fatwâ* against Ahmadiyah in its seventh National Congress on July 2005. They reveal in the *fatwâ* that the 2005 *fatwâ* is to reconfirm the stance

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[150] Mohammad Atho Mudzhar, *Fatwa-fatwa Majelis Ulama Indonesia: Sebuah Studi tentang Pemikiran Hukum Islam di Indonesia 1975-1988/Fatwas of the Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia*, Bilingual Edition (Jakarta: INIS, 1993), 84/73.
[151] Khalimi, *Ormas-Ormas Islam*, 15-16.
[152] Ibid., 16.
[153] Ibid.

of the MUI against Ahmadiyah. The *fatwâ* consists of three decisions. The first point of the *fatwâ* declares on the one hand that the Ahmadiyah is not part of Islam and Muslims who follow Ahmadiyah are apostates. On the other hand, the second point of the *fatwâ* suggests the members of Ahmadiyah to return to the teachings of Islam which are based on the Qur'an and *Sunna* (*al-ruju' ila al-haqq*). The last point of the *fatwâ* urges the government to act upon the Ahmadiyah groups, to forbid the spread of the movement, and to stop all its activities in all regions in the country.[154]

In addition, they state in the clarification of the *fatwâ* that the 2005 *fatwâ* is more comprehensive, since it is formulated based on the 'library research' of the publications of both Ahmadiyah movements. Therefore, the decision is based on the investigation on the Ahmadiyah books, such as *Kitâb Tadzkira*,[155] *Bighâm Shulh*, and *al-Nubuwwa fî al-Islâm*. As for the Lahore, the MUI explains that the Lahore is considered to be deviant in this *fatwâ* because they continue to follow the teachings of Ghulâm Ahmad, a person who announced himself as a prophet. According to the MUI, the Lahore Ahmadiyah is not different from the Qadian, since it is stated in its book, *Bighâm Shulh* that they still believe that Ghulâm Ahmad is a prophet. In terms of the restriction, they further explain that the prohibition of the Ahmadiyah activities in a region should be based on the coordination between the *'ulamâ* and the local government which has authorities to act upon a deviated sect. The MUI would not justify the anarchism in the name of its *fatwâ* towards the Ahmadiyah adherents.[156]

This *fatwâ* has created controversies among Muslims in the country. The radical Muslim organizations like the DDII, the FUI, the FPI, the *Ittihadul Muballighin*, and the Persis react to the *fatwâ* that the government should forbid

[154] Majelis Ulama Indonesia, *Fatwa Munas VII Majelis Ulama Indonesia* (Jakarta: Majelis Ulama Indonesia, 2005), 97. For the detailed discussion of the MUI *fatwâ* against Ahmadiyah, see, for instance, Lilik Rofiqoh, *The Fatwa of the Majelis Ulama Indonesia on Ahmadiyah's Doctrines: the problems of religious authority and tolerance* (Master Thesis: Leiden University, 2008).
[155] Kitâb Tadzkira is a compilation of the dreams, *kasyf*, and revelations which were delivered to Mîrzâ Ghulâm Ahmad. This book becomes the main book for the Ahmadiyah movements.
[156] Majelis Ulama Indonesia, *Fatwa Munas VII Majelis Ulama Indonesia*, 136-157.

the presence and dissemination of the Ahmadiyah in Indonesia. Some of these radical Muslim organizations marched down the main streets in Jakarta to express their ideas concerning the demand of the abolishment of the Ahmadiyah movements in Indonesia.[157]

However, in a plenary session of the Central Board of the NU in Bogor in 2005, the NU refused to announce that the Ahmadiyah is misleading. They further state that the Ahmadiyah is a 'new religion' which should be tolerated in Indonesia.[158] Conversely, Din Syamsuddin, the chairman of the Muhammadiyah asserts that the Qadian Ahmadiyah has disgraced Islam because they regard Ghulâm Ahmad as a prophet.[159] In addition, Munarman, a former commander of the FPI, specifically mentions that based on the law number 1/PNPS/1965 the government has right to outlaw the organization, such as Ahmadiyah which desecrates a religion.[160]

The other Muslims responded in sharp contrast with the radical Muslim organizations. The *Madani* Alliance which contains some prominent Muslim scholars, such as Dawam Rahardjo, Salahuddin Wahid, Adnan Buyung Nasution, and Musdah Mulia see the *fatwâ* as the core of the conflict among Muslims regarding the case of Ahmadiyah. They state that the *fatwâ* is against freedom of religion and they urge the government to remove all decisions which were based on the MUI's *fatwâ*. They also argue that the *fatwâ* has intensified the violence in the country towards followers of Ahmadiyah. Azyumardi Azra reveals that the *fatwâ* might trigger religious conflict in the society and it is not in line with the principle of religious tolerance and *da'wa* in Islam. It could also be used to justify violence towards the Ahmadiyah. Moreover, Ulil Abshar Abdalla, one of the

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[157] Wawan H. Purwanto, *Mengurai Benang Kusut Konflik FPI-AKKBB* (Jakarta: Cipta Mandiri Bangsa Press, 2008), 81.
[158] Khalimi, *Ormas-ormas Islam*, 15.
[159] Purwanto, *Mengurai Benang Kusut*, 86.
[160] A. Yogaswara, *Heboh Ahmadiyah: Mengapa Ahmadiyah tidak Langsung dibubarkan?* (Yogyakarta: Narasi, 2009), 75.

founders of the JIL argues that the *fatwâ* is not appropriate to follow, since it is not in accordance with the 'right' methods of *ijtihâd*.[161]

The heated debate on the *fatwâ* forced the MUI to organize a coordination meeting on May 2008. This meeting was attended by all the representatives of the MUI branches in provinces in the country. In the meeting, Ma'ruf Amin, the chairman of the MUI, states that this sudden meeting was held to solve the controversies of the MUI's *fatwâ* against Ahmadiyah. Besides, there were some Muslim scholars and organizations which opposed the *fatwâ* and asked the government to ban the MUI.[162]

All the MUI members in the meeting agreed that they should insist (*istiqâma*) on the *fatwâ* regarding Ahmadiyah. They refused the opinions which considered the *fatwâ* as a trigger of a conflict within Muslim communities. In addition, it is not true that the *fatwâ* justified violence towards Ahmadiyah followers because the MUI also oppose the anarchism towards Ahmadiyah. The most important conclusion of the meeting is that the MUI requested the government to quickly issue the SKB to cope with the case of Ahmadiyah. According to the MUI, the hesitance and the delay of the government to issue the SKB might result in more violence against Ahmadiyah in the society.[163]

The polemic of the *fatwâ* concerning Ahmadiyah resulted in a "bloody tragedy" at Monas, Jakarta on June 1st, 2008. The incident happened when the National Alliance for Freedom of Religion and Faith (AKKBB-*Aliansi Kebangsaan untuk Kebebasan Beragama dan Berkeyakinan*), which consists of mass organizations, NGOs, some artists and celebrities, and some Ahmadiyah members held a rally to commemorate the birth of *Pancasila*. This rally was aimed to support the rights of the Ahmadiyah followers to live in Indonesia. They argue that according to the UUD 1945 everyone regardless his faith and religion

[161] Purwanto, *Mengurai Benang Kusut*, 87-88.
[162] Majelis Ulama Indonesia, *Rapat Koordinasi Pimpinan MUI se-Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, 2008), 5-7.
[163] Ibid., 67-72.

has right to stay in Indonesia. This rally was indirectly conducted to oppose the MUI's *fatwâ*.[164]

The FPI, the HTI, and the Islamic Paramilitary Troops (*Laskar Islam*) directed by Munarman at the same time held a march against the government policy to increase the oil price. The mass of these radical Muslim organizations were heading towards the State Palace when they unintentionally encountered the AKKBB at Monas. The mass of the radical organizations, who knew that the rally of the AKKBB to support the Ahmadiyah, attacked the AKKBB by burning its flags, stoning and beating its members. As a result, 29 members of the AKKBB were seriously injured in the accident. However, both parties had different opinions regarding the motives of the attack. The radical Muslims organizations claim than the attack occurred because the members of the AKKBB provoked and insulted some members of the radical organizations. In contrast, the AKKBB argue that the attack could be anticipated if the police secured the rally to avoid the violence.[165]

The background of the attack is obscure due to the different information of both parties. What is clear to us is that both parties have involved in the heated debates regarding the Ahmadiyah. These debates to some degree had impacted the tragedy at Monas. In the clarification of the accident, the *Laskar Islam* states that the rally to express solidarity to the Ahmadiyah and the engagement of some Ahmadiyah members in the AKKBB were considered as provocative actions.[166]

The government eventually issued the SKB regarding the JAI eight days after the tragedy at Monas, on June 9th, 2008. Mudzhar, the director of the Division of the Religious Research and Development and Training of the Depag, explains that "based on the clarification of the SKB which was delivered by the Minister of Religious Affairs, Maftuh Basyuni, the issuance of the SKB concerning the JAI does not mean to show the intervention of the government in

[164] Purwanto, *Mengurai Benang Kusut*, 88-89.
[165] Ibid., 92.
[166] Ibid., 94-95.

religious life of the society, but it is created to maintain peace and security in the society". Mudzhar states that the SKB was created to end the controversy of the JAI and public disturbance which was caused by the case of the JAI. In addition, the SKB aims to protect the JAI members from violence which may be committed by other groups. Moreover, he asserts that the SKB has a legal standing in accordance with the article 2 of the law 1/PNPS/1965 and therefore every element of the society should obey it.[167]

The SKB regarding the JAI contains six decisions which can be concluded into three main points. Firstly, the government warns and orders the JAI followers and the members of the board of the JAI to stop disseminating their teachings, especially the teaching of the admission of Ghulâm Ahmad as a prophet as long as they confess that they are Muslims. The government would act upon those who violated the first point of the SKB based on the article 156a of the KUHP regarding blasphemy. Secondly, the government commands the society to keep and maintain religious harmony, security and peace in the country and forbids them to act against law towards the JAI followers and members. Those who do not obey the second point of the SKB would be punished based on the article 156 and 170 of the KUHP. Lastly, the government asks the central and local governments to provide guidance and control of the implementation of the SKB. This guidance is important to accommodate the members of the JAI who intend to return to the mainstream Islam.[168]

In addition, to ensure the application of the SKB, a joint circulation letter was issued by the Secretary General of the Depag, the Solicitor General Intelligent, and the Director General of the Nation and Politic Unity of the Department of Home Affairs. In this letter, they remark that the first point of the SKB was addressed to the members and the followers of the JAI who continue to

[167] Departemen Agama RI, *Buku Sosialisasi Surat Keputusan Bersama tentang Peringatan dan Perintah kepada Penganut, Anggota dan atau Anggota Pengurus Jemaat Ahmadiyah Indonesia (JAI) dan Warga Masyarakat* (Jakarta: Badan Litbang dan Diklat, Departemen Agama, 2008), iii-iv.
[168] Ibid., 13-16.

admit that they are Muslims. In other words, those who do not confess as Muslims are allowed to spread the teachings of the JAI.[169]

Is the SKB an end of the dispute of the case of the Ahmadiyah? How is the reaction of Muslim communities in Indonesia regarding the issuance of the SKB? The issuance of the SKB unexpectedly exacerbates the debates on the case of Ahmadiyah. Some activists who are affiliated to human rights and women organizations object the SKB regarding the JAI. The chairperson of the National Commission on Violence against Women, for instance, asserts that the SKB is in contradiction with freedom of religion. She further states that it has caused pressure on children and women of the JAI. They were exiled from their own society because of the SKB.[170]

On the contrary, Habib Rizieq Syihab, the leader of the FPI asserts that the issuance of the SKB is not enough to solve the conflict within Muslim communities concerning the Ahmadiyah. He further states that the SKB is only a warning for the JAI and it does not include the GAI which is also misleading. He proposes that the government should remove the SKB because its content is ambiguous and replace it with a presidential decree which firmly declares the prohibition of the existence of the JAI and the GAI in Indonesia.[171]

Some local governments in the country responded the SKB by issuing a decision letter and a regulation on the restriction of the activities of the JAI in their regions. There are currently five provincial governments and seven municipal governments which have implemented a regulation against the JAI. They consist of West Java, Banten, East Kalimantan, South Sumatera and East Java, and Tasikmalaya, Garut, Bogor, Samarinda, West Lombok, East Lombok, and Pandeglang. These regulations in some regions were followed by violence towards the members of the JAI in which the majority of Muslims destroyed the

[169] Ibid., 24.
[170] Yum, "Komnas Perempuan: SKB Keluar, Perempuan dan Anak-anak Menjadi Korban" *Sinergi* 6, 5 (Juli 2008): 5.
[171] Purwanto, *Mengurai Benang Kusut*, 237-239.

JAI mosques and forced them to leave their villages.[172] However, some regions refuse to create a regulation in accordance with the 2008 Joint Decree. For example, the governor of the province of DKI Jakarta, Fauzi Bowo denied issuing a decree concerning the removal of Ahmadiyah after he learned the regulation issued by the governors of West and East Java. He argues that actually the formulation of the SKB aims to protect the members of the Ahmadiyah, but it was misunderstood by many that the main objective of the SKB is to ban the activities of the Ahmadiyah.[173]

The debates on the MUI *fatwâ* and the the 2008 SKB regarding the Ahmadiyah case reflect the different opinions on the implementation of religious freedom in Indonesia. Can freedom of religion be limited in Indonesia? Is it allowed for a group of Muslims to have different interpretations of the teachings of Islam? Can a person or an organization freely express their ideas about religion? The SKB indicates that the government attempt to bridge those who support and oppose the ban of the Ahmadiyah. They on the one hand decided to restrict the *da'wa* (religious missionary) of the Ahmadiyah to avoid religious conflict and on the other hand tried to protect the Ahmadiyah followers from mass violence. However, in the context of a democratic state, the SKB might be seen to be in sharp contrast with the principle of freedom of religion. The governments actually do not need to issue the SKB if they intend to protect the Ahmadiyah followers. They only need to warn and order Muslims to stop violence against the members of the Ahmadiyah and to act upon those who continue to do it. Therefore, the government has arguably violated freedom of religion with the restriction on the activities of the Ahmadiyah in the country.

C. Societal Violence against Ahmadiyah

[172] Ismail Hasani, ed., *Siding and Acting Intolerantly: Intolerance by Society and Restriction by the State* (Jakarta: Setara Institute Publication, 2009), viii-ix.
[173] Indonesia's NGO Coalition for International Human Rights Advocacy, "SKB 3 Menteri untuk Lindungi Ahmadiyah." Accessed on April 22, 2011, http://www.hrwg.org/en/news/general/1113-skb-3-menteri-untuk-lindungi-ahmadiyah-.

The issuance of the SKB regarding the Ahmadiyah could not end and prevent the religious violence against the Ahmadiyah followers in Indonesia. Conversely, the reasons behind the attacks on mosques, schools, and members of the Ahmadiyah are a misunderstanding of the objective of the SKB and the disagreement of some radical Muslim organizations to the SKB. The ambiguity of its content resulted in the abuse of freedom of religion undertaken by some local governments and the radical organizations. Most of them argue that violence against the Ahmadiyah activities was based on the SKB.[174]

For example, the District Attorney of Tasikmalaya, West Java announced the prohibitions for the Ahmadiyah members to perform prayer in their mosques on June 25th, 2008.[175] Before the prohibition by the District attorney, a number of Muslims which used the FPI's attributes destroyed a mosque of the Ahmadiyah in Singaparna, a sub-district in Tasikmalaya. They shouted the ban of the Ahmadiyah in Tasikmalaya.[176] In addition, the local government of Tangerang, Banten forcibly forbade the Ahmadiyah members to perform prayer and requested them to stop their activities on July 2008.[177]

The local police force of Kuningan, West Java dismissed the activities of the Ahmadiyah members and closed the Ahmadiyah mosque, An-Nûr, in Manislor on July, 2010. In addition, some members of the radical Muslim organizations, such as the FPI and the FUI destroyed the mosque and stoned the Ahmadiyah followers when they were doing their activities near the mosque. Some Ahmadiyah followers were seriously injured.[178]

Afterwards, hundreds of the members of the FPI and the FUI in Surabaya conducted sweepings to find the Ahmadiyah followers and to prosecute them of

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[174] Ibid., 47.
[175] Ibid.
[176] Kontras, "Kronologi Peristiwa Penyerangan terhadap Ahmadiyah di Tasikmalaya", accessed on June 1, 2011, http://www.kontras.org/pers/teks/Kronologi/Peristiwa/Penyerangan/terhadap/Ahmadiyah/di/Tasikmalaya/pdf.
[177] Hasani, *Siding and Acting Intolerantly*, 47
[178]The Wahid Institute, "Laporan Kebebasan Beragama/Berkeyakinan dan Toleransi 2010," *Annual Report* (Jakarta: the Wahid Institute, 2010), 39.

blasphemy on August 2010, but they failed. They then attacked the office of the Ahmadiyah branch in Surabaya. The local police officers did not arrest the actors of the attack. Conversely, they prohibited the board of the Ahmadiyah in Surabaya to inform media about the violence.[179]

At the end of August, a number of Muslims rudely closed the Ahmadiyah mosque in a village in Pekanbaru, Riau. This attack was permitted by the local police and by the chairman of the Forum of Religious Tolerance in the province, Sumardi Ilyas. Ilyas argued that the permission was given to prevent further violence against the Ahmadiyah members.[180]

In Bogor, a number of Muslims forced the Ahmadiyah followers to leave their homes. The situation was getting worse when some Ahmadiyah followers refused to leave their homes and defended their belongings. The perpetrators of this violence were not sentenced by the local police. They indeed investigated the case, but they investigated the case to capture one of the Ahmadiyah members who was suspected to have stabbed one of the perpetrators. No one was arrested by the local police in this case.[181]

Furthermore, the Islamic Reformist Movement (Garis-*Gerakan Reformasi Islam*) dismissed the Annual Congress of the Ahmadiyah in Cianjur on December 2010. The local police force who came to the location asked the members of the congress to leave the hotel where the congress was held. Shortly after the dismissal of the Ahmadiyah congress in Cianjur, the officers of the High Attorney close the Ahmadiyah boarding school and orphanage. The staffs of the Ahmadiyah school refused to stop their activities, but some district officers locked the school by force when some children are inside the building of the school. Suddenly, a number of the local FPI members came and close the school after they forced the children inside the building of the school to leave.[182]

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[179] Suaedy, "Religious Freedom and Violence", 112.
[180] Ibid., 115.
[181] Ibid., 121.
[182] The Wahid Institute, "Laporan Kebebasan Beragama", 44.

The societal violence against the Ahmadiyah members continues to happen in some regions of the country. Based on the aforementioned cases, most of the members of the radical Muslim organizations, such as the FPI, the FUI, and the DDII intensively involve in the violence against the Ahmadiyah in several regions of the country. Some of their members argue that their actions against the Ahmadiyah are in accordance with the 2008 SKB in which the members of the Ahmadiyah are forbidden to spread their controversial beliefs and to perform misleading rituals similar to the mainstream Muslims in the country.

Likewise, some local governments state that the ban of the Ahmadiyah activities in their regions is not only based on the decision letter of their leaders, but also based on the 2008 SKB. This is reason why in some cases of violence against the Ahmadiyah, the local governments work together with the members of the radical Muslim organizations to dismiss the activities of the Ahmadiyah.

The core of the controversy of the SKB is concentrated on the interpretations of the content of the SKB, particularly its first point. Although the main aim of the SKB is to avoid mass violence against the members of the Ahmadiyah, the first point of the SKB arguably justify local governments and Muslims to restrain the Ahmadiyah activities in which the government not only orders the Ahmadiyah to stop their interpretation but also their activities.

CHAPTER THREE

RECENT DEBATE ON BLASPHEMY IN THE CONSTITUTIONAL COURT

After the discussion of the dispute between religious and state authority in the framework of the implementation of the law number 1/PNPS/1965 and the article 156a of the KUHP regarding blasphemy, this chapter is intended to discuss Muslims' reactions and perceptions regarding the implementation of the laws in the judicial review at the MK court. This chapter will be divided into three parts. The first part will deal with the establishment and functions of the MK, including the profile of its current judges since they have a significant role to determine the organizations and the scholars who were invited in the hearing session. The second part of this chapter will elaborate Muslims' opinions concerning the status of the regulations against blasphemy whether they should be removed, revised, or maintained or not. These debates will lead us to Muslims' perceptions and understanding of freedom of religion in Indonesia. The last part of this chapter attempts to view Muslims' opinions about the implication of MK's decision which finally refused to withdraw and review the laws.

A. The Indonesian Constitutional Court

The Indonesian Constitutional Court (MK) was founded on August 13th, 2003. The idea of the establishment of MK actually had been discussed since the period of the formulation of the UUD when Muhammad Yamin proposed that there should be an institution whose main duty to examine whether a regulation is in accordance with UUD 45 or not. This idea, which was proposed in a meeting of the Investigatory Body for Preparatory Work for Indonesian Independence (BPUPKI-*Badan Penyelidik Usaha Persiapan Kemerdekaan Indonesia*),[183] was,

[183] The Investigatory Body for Preparatory Work for Indonesian Independence was founded by Japan as the promise fulfillment of the eventual independence for Indonesia from the Prime

however, denied by Soepomo due to three reasons: "(1) the basic concept which is followed in the constitution, which was being formulated, is not separation of power, but distribution of power; (2) besides, judge's duty is to apply legislation, and not to examine it; and (3) the authority of a judge to examine legislation is in contrast to the supremacy of the People's Consultative Assembly (MPR-*Majelis Permusyawaratan Rakyat*)."[184] As a result, Yamin's proposal was not adopted by the government.

This idea re-emerged in post-Suharto era in between 1999 and 2002 followed by the idea of the amendment of the constitution. The adoption of the idea of the establishment of MK was approved by MPR in the third amendment of the constitution as based on article 24 paragraph 2 and article 24C of UUD 45 in 2001.[185] Shortly after that, the government and the Indonesian Legislative Assembly (DPR-*Dewan Perwakilan Rakyat*) arrange a regulation regarding MK's duty and rights. After a long discussion, this arrangement was approved by the government and the DPR in a plenary session on August 13th, 2003.[186]

Afterward, the recruitment of judges of MK was conducted by the DPR, the president Megawati Soekarnoputri, and the Supreme Court (MA-*Mahkamah Agung*). The MK consists of nine judges who are selected by those three governmental institutions. Each institution, therefore, has to propose three judges. The judges who were selected in the first period of the MK were Jimly Asshiddiqie (chairman), Achmad Roestandi, I Gede Dewa Pulgana, Ahmad Syarifuddin Natabaya, Abdul Mukthie Fadjar, Harjono, Mohammad Leica

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Minister Kuniaki Koiso on March 1945. See Robert Cribb and Audrey Kahin, *Historical Dictionary of Indonesia* (Oxford: the Scarecrow Press, 2004), 36.

[184] Mahkamah Konstitusi, *Profil Mahkamah Konstitusi* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2008), 1-2.

[185] It is worth mentioning that in post-Suharto periods, the 1945 Indonesian Constitution was amended four times. The first amendment was approved by MPR on October 1999, the second was on August 2000, the third was on November 2001, and the fourth was on August 2002. The second paragraph of the article 24 of the UUD 1945 states that "the judicial power is conducted by the courts under the framework of a supreme court and judicial bodies including the general courts, religious courts, military courts, administrative courts and by a constitutional court". And the article 24C of the UUD 1945 consists of 6 paragraphs which explain the authorities of the MK. See Imam Syaukani et. al., *Kompilasi Kebijakan dan Peraturan Perundang-Undangan Kerukunan Umat Beragama* (Jakarta: Puslitbang Kehidupan Beragama, 2008), 111-113.

[186] Mahkamah Konstitusi, *Profil Mahkamah Konstitusi*, 2.

Marzuki, Soedarsono, and Muruarar Siahaan. Although having been established, MK could not operate until the delegation of tasks from MA to MK in October 2003.[187]

The MK has one duty and four rights according to the UUD 1945. The main duty of MK is to issue a decision under the DPR consideration regarding the impeachment of a president or vice president if she or he is proven to betray the country, conduct corruption and bribery or accept it, and to be incapable to lead the country. In addition, MK has authorities to examine a regulation towards the UUD 1945, to overcome dispute among government institutions whose authorities are based on UUD 1945, to ban a political party, and to solve disputes of general election including local general elections in provinces and regencies.[188]

The current judges of MK are Mohammad Mahfud MD (chairman), Achmad Sodiqi, Arsyad Sanusi, Muhammad Alim, Harjono, Maria Farida Indrati, Ahmad Fadlil Sumadi, Akil Mochtar, and Hamdan Zoelva.[189] Mahfud MD was a lecturer in the Islamic University of Indonesia (UII-*Universitas Islam Indonesia*) and some other universities in Indonesia. He was the former rector of the Islamic University of Kediri, East Java. In politics, he was affiliated with the NU and the Nation Awakening Party (PKB-*Partai Kebangkitan Bangsa*). He was the former Minister of Defense and Judicial and Human Rights Affairs during Gus Dur's presidency. He also ever became members of the DPR from 2004 to 2008.[190] The other judges of MK are mostly affiliated with the leading universities in Indonesia, such as the University of Indonesia (UI-*Universitas Indonesia*).[191]

B. Redefining Freedom of Religion: Recent Debate on Blasphemy

For the first time since its creation in 1965, the laws against blasphemy in Indonesia were heatedly debated at the MK. The background of this debate was

[187] Ibid., 3.
[188] Ibid., 6-7. For more detailed analysis of the functions of MK, see Hendrianto, "Institutional Choice and the New Indonesian Constitutional Court" in *New Courts in Asia*, ed. Andrew Harding and Penelope Nicholson (New York: Routledge, 2010), 158-176.
[189] Mahkamah Konstitusi, *Profil Hakim Konstitusi* (Jakarta: Sekretariat Jenderal and Kepaniteraan, 2010).
[190] Mahfud MD, "Mahfud MD," Last modified on March 10, 2011, http://www.mahfudmd.com.
[191] For detailed profile of the judges of MK see Mahkamah Konstitusi, *Profil Hakim Konstitusi*.

the petition of the removal of the laws against blasphemy proposed by some Non-Government Organizations (NGOs) of Human Rights and Law, and some leading Muslim Scholars on October 2009. As a result, the MK held a hearing session to listen carefully to the reasons of the petitioners who urge the MK to withdrawal the laws. In addition, the MK invited some representatives of the government, the DPR, and some religious organizations, particularly Muslim organizations who are considered to involve in the implementation of the laws in society.

The petitioners consist of the Association of Initiative Participative Society for Justice Transition (*Perkumpulan Inisiatif Masyarakat Partisipatif untuk Transisi Berkeadilan*) of the Indonesian Human Rights Monitor (Imparsial), the Institute for Study and Advocacy of Society (Elsam- *Lembaga Studi dan Advokasi Masyarakat*), the Indonesian Legal Aid and Human Rights Association (PBHI- *Perkumpulan Perhimpunan Bantuan Hukum dan Hak Asasi Manusia*), the Center for Democracy and Human Rights Studies (Demos- *Perkumpulan Pusat Studi Hak Asasi Manusia dan Demokrasi*), the *Setara* Society Association (Pemata- *Perkumpulan Masyarakat Setara*), and the Indonesian Legal Aid Foundation (YLBHI- *Yayasan Lembaga Bantuan Hukum Indonesia*). Muslim scholars who involve in the petition are Musdah Mulia, Abdurrahman Wahid, Dawan Rahardjo, and Maman Imanul Haq. The first three Muslim scholars are well-known to intensively promote pluralism in the country, whereas Maman Imanul Haq is the founder of *Pondok Pesantren* al-Mizan in Majalengka, West Java. To support their opinions, the petitioners present two witnesses who became victims of the implementation of the law, and ask six scholars to explain their experiences regarding the prosecutions based on the laws against blasphemy in this hearing session.

The Imparsial is an NGO which was established by 18 activists[192] of human rights on June 2002. The aim of this organization is to monitor violation of

[192] The 18 activists of human rights of the Imparsial are Todung Mulya Lubis, Karlina Leksono, M. Billah, Wardah Hafidz, Hendardi, Nursyahbani Katjasungkana, Ade Rostina Sitompul, Robertus Robet, Binny Buchory, Kamala Chandrakirana, HS Dillon, Munir, Rachland Nashidik, Rusdi Marpaung, Otto Syamsuddin Ishak, Nezar Patria, Amiruddin, dan Poengky Indarti.

human rights in Indonesia.[193] The Elsam an organization which was founded on August 1993 to "encourage the development of a democratic political order, by means of strengthening civil society through advocacy and promotion of human rights in Indonesia." This organization actively involves in advocating the victims of violation of human rights to get justice.[194] The PBHI was established on November 1995. It has branches in some provinces in Indonesia. The members of the PBHI consist of volunteers and lawyers which support the implementation of human rights in Indonesia. The PBHI was founded to watch the implementation of human rights by the government and to promote human rights in the country.[195] The Demos is an organization which devote its efforts to support the process of democratization in Indonesia. This organization which was established in 1997 was initiated when some researchers at the Institute for Study of Information Influx (ISAI-*Institut Studi Arus Informasi*) cooperated with Swedish Agency for Research Cooperation (SAREC). The main objective of the Demos is to promote democracy and human rights in Indonesia.[196] The *Setara* Society Association is an organization which is affiliated to the *Setara* Institute. The *Setara* Institute was established by some of prominent Muslim scholars, such as Abdurrahman Wahid and Azyumardi Azra, and individuals including lawyers and scholars to remove and decrease discrimination and intolerance in the name of religion, ethnicity and gender and to promote solidarity in Indonesia. They intensively conduct research regarding democracy and human rights in several regions in Indonesia and publish their findings in the form of annual reports.[197] Last but not least, the YLBHI is an organization which was established based on an initiative in the third congress of the Indonesian Advocate Association (Paradin-*Persatuan Advokat Indonesia*). The idea of the establishment of the YLBHI was approved by the board of the

[193] Imparsial, "Profil Imparsial," Last modified on April 8, 2010, in http://www.imparsial.org/profil-imparsial.html.
[194] Elsam, "about elsam," Last modified on June 10, 2011, in http://www.elsam.or.id/aboutelsam.php.
[195] PBHI, "profil pbhi," Last modified on June 10, 2011, in http://www.pbhi-jakarta.org/content/profil-pbhi-jakarta.
[196] Demos, "profil," Last modified on June 10, 2011, in http://www.demosindonesia.org/profil.html.
[197] The *Setara* Institute, "profil," Last modified on June 10, 2011, in http://www.setara-institute.org/id/content/profil.

Paradin on October 1970. This organization helps the poor to gain their rights and to prevent violation of human rights. It members intensively promoted democracy during the New Order period.[198]

As for the government, the MK invited the Minister of Religious Affairs, Suryadharma Ali and the Minister of Law and Human Rights, Patrialis Akbar. The DPR delivered their opinions in a written text which was read during the hearing session. In addition, the government invited 15 scholars who have qualification in law and Islam, most of whom are Muslims.

The Muslim organizations which were invited in this session are the MUI, the NU, the Muhammadiyah, the Indonesian Council of Islamic Propagation (DDII-*Dewan Dakwah Islam Indonesia*), the Unity of Islam (Persis-*Persatuan Islam*), the United Development Party (PPP-*Partai Persatuan Pembangunan*), the Irene Center Foundation, the Central Board (DPP-*Dewan Pimpinan Pusat*) of the Unity of Missionary (*Ittihadul Mubalighin*), the Gathering Agency of *'Ulamâ* of Islamic Boarding School of Madura (BASSRA- *Badan Silaturahmi Ulama Pesantren Madura*), the Front of Islamic Defender (FPI-*Front Pembela Islam*), the *al-Irsyad al-Islamiyah* Islamic Boarding School, the Indonesian Party of Liberation (HTI-*Hizbut Tahrir Indonesia*), the Forum of Freedom of Religious Community (FKUB-*Forum Kebebasan Umat Beragama*), the Forum of Islamic Community (FUI-*Forum Umat Islam*), and the Council of Indonesian Mosques (DMI-*Dewan Masjid Indonesia*).

The DDII was established by Muhammad Natsir, one of the prominent leaders of the Masyumi and some of his friends in 1967. This organization devoted their efforts to missionary (*da'wa*) agendas to improve Muslims' piety in Indonesia. Besides, the suppression of 'political Islam' in the New Order era caused Natsir and the members of the DDII to concentrate on *da'wa*.[199]

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[198] The YLBHI, "Sekilas YLBHI," Last modified on June 10, 2011, in http://www.ylbhi.or.id/index.php?cx=1.

[199] Martin van Bruinessen, "Genealogies of Islamic Radicalism in Post-Suharto Indonesia," in *Islam in Southeast Asia* 10 (2010): 35-66.

The *Persis* was established by a group of Muslims in Bandung in 1923. The establishment of this organization is to provide an association which focuses on the discussion about Islam in Indonesia. The discussion about Islam and Muslims' activities has long been undertaken by a group of Muslims before the *Persis* was established in the country. However, Muslims do not have a formal association which mainly dealt with the problems faced by Muslims. Therefore, a group of Muslims agreed to establish the *Persis* as an association for Muslims who intend to discuss about Islam. Its members, most of whom are merchants adopted the 'reformist ideas' from the Middle East.[200]

The PPP is a political party founded in 1971 as the fusion of Islamic parties in the New Order period. This party and the Crescent Moon and Star Party (PBB-*Partai Bulan Bintang*) have ever made an effort to include Shari'a in the UUD 45. They urged the MPR to re-insert the seven famous words of the Jakarta Charter (*Piagam Jakarta*) in 2002, but their proposal did not gain support from other Islamic parties and the MPR refuse it at the time.[201]

The *Ittihadul Muballighin* was founded by a group of Muslims on August 1978 in Jakarta. This organization whose first chairman was K.H.A. Syaikhu aims to improve the quality of Muslims' piety through missionary (*da'wa*) and support the program of nation building of Indonesian state. It has branches in some provinces in Indonesia and some departments to succeed its agendas of *da'wa*. The members of the organization consist of some *'ulamâ* of the Islamic boarding schools in Indonesia.[202]

The FPI was founded by Habib Rizieq Syihab on August 1998 after the fall of the New Order regime. The FPI whose leader is an Arabic descent has a main mission to prevent disobedience among Muslims and to enforce Islamic law

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[200] Howard M. Federspiel, *Islam and Ideology in the Emerging Indonesian State* (Leiden: Brill, 2001), 84.
[201] Nadirsyah Hosen, "Religion and the Indonesia Constitution: A Recent Debate" in *Journal of Southeast Asian Studies* 36 (October 2005): 419-440.
[202] Pengurus Pusat Ittihadul Muballighin, *Keputusan-keputusan Musyawarah Nasional ke-1 dan Milad ke-5 Ittihadul Muballighin* (Jakarta: Sekretariat Ittihadul Muballighin, 1983).

in Indonesia. The members of the FPI frequently march down the streets to destroy some places, such as discotheques which are considered to be places for Muslims who violate Islam law.[203]

The *al-Irsyad al-Islamiyah* is an association of a group of Muslims which was founded by Ahmad Surkati on September 1914. This association which has strong relationship with the *Persis* is influenced by the idea of Islamic reform in the Middle East. Most of the members of the *al-Irsyad al-Islamiyah* are Arabic descents which actively promote the idea of returning to the Quran and the *Sunna* of the prophet. They involved in the conflict of Moluccas between Muslims and Christians.[204]

The *Hizbut Tahrir* is a 'transnational' organization whose main agenda is to establish an Islamic state in the world. This organization was established in Jerusalem 1953 and since then it has many branches in several countries in the world. This organization came into existence in Indonesia after the bombing of the World Trade Centre in New York in 2001.[205]

Not only the petitioners and the government do invite some scholars in the hearing session, but also the MUI and the MK ask some scholars from their side to give opinions concerning the law. The scholars invited by the MUI are Adian Huasini, the chairman of the DDII.[206] Amien Jamaluddin, and Abu Yamin Rahman. All parties involved in the hearing session were supported by some lawyers.

In this debate, freedom of religion becomes the core of the discussion whether the law number 1/PNPS/1965 and the article 156a of the KUHP are

[203] The FPI, "Tentang FPI," Last modified on June 12, 2011, in http://fpi.or.id/?p=tentangfpi&mid=1.
[204] Khalimi, *Ormas-Ormas Islam: Sejarah, Akar Teologi dan Politik* (Jakarta: Gedung Persada Press, 2010), 67-71. See also Johan T. Sidel, *Riots, Pogroms, and Jihad: Religious Violence in Indonesia* (Ithaca: Cornell University Press, 2006), 203.
[205] Khalimi, *Ormas-Ormas Islam*, 371-379.
[206] Although Adian Husaini is the chairman of the DDII, his opinions are separated from his organization. The content of their opinions may be the same, but in this case Husaini speaks as the scholars from the MUI.

against the constitution. It is, therefore, important to formulate the definition of freedom of religion before discussing widely divergent opinions concerning blasphemy. The definition of freedom of religion may develop and vary in different countries in the world. According to Webster's Third New International Dictionary, freedom has two meanings: (1) "the equality or state of not being coerced or constrained by fate, necessity or circumstances in one's choices or actions"; and (2) "a right or liberty guaranteed by a constitution or fundamental law or granted by one in authority or assured by a covenant or popular sentiment."[207] According to Hasani in the Report of Freedom of Religion/Belief of the *Setara* Institute, freedom of religion in Indonesia is defined as "a guarantee provided by the State on the freedom of belief of individuals and the freedom of worship individually and in community."[208] In addition, Dawam Rahardjo argues that freedom of religion is "one of the principles of civil liberty which is protected by the State which is responsible to guard the implementation of freedom of religion."[209]

The hearing session was marked by intimidation, specifically addressed to the members of JIL who engaged in the hearing session. Before the session was held, some Mass organizations gathered in front of the MK's building. Some of them argue that the demand of the removal of the regulations against blasphemy emerged as a new form of the PKI to support atheism. For example, the Alliance of Homeland Defense Forum (Forpeta-*Aliansi Forum Pembela Tanah Air*) states that if the law is repealed, the PKI would be free to involve in politics.[210] In the Sabili online, the widely-known radical Muslim Magazine, Hasyim Muzadi

[207] Philip Babcock Gove et. al. (eds.), *Webester's Third New International Dictionary of the English Language Unabridged* (Springfield: Merriam-Webster Inc., 1993), 906.
[208] Ismail Hasani, ed., *Siding and Acting Intolerantly: Intolerance by Society and Restriction by the State* (Jakarta: Setara Institute Publication, 2009), 7.
[209] Dawam Rahardjo, *Merayakan Kemajemukan Kebebasan dan Kebangsaan* (Jakarta: Kencana Prenada Media Group, 2010), 306.
[210] Kompas, "Massa Anti-PKI Desak MK Tolak Pencabutan UU Penodaan Agama" Last modified on March 12, 2010. http://nasional.kompas.com/read/2010/03/12/1038212/Massa.Anti-PKI.Desak.MK.Tolak.Penghapusan.UU.Penodaan.Agama.

asserts that the petition which was sent to the MK by some people who support atheism.[211]

The members of some Muslim organizations including some children wearing white caps gathered surrounding the building of the MK. They brought banners and posters containing slogans and pictures of some Muslims who supported the petition, such as Ulil Abshar Abdalla, Musdah Mulia, and Dawan Rahardo. In the banner which contains the *Persis'* symbol, it is written "defend the law number 1/PNPS/1965. Removing it means war", while in the poster, the title was "these are the protectors of heretical groups who cannot distinguish between the diversity of and desecration of religions". A veiled-female member of Muslim organizations who stood near the entrance of the MK loudly shouted that "we all Muslims gathered here to uphold Islamic *Shari'a* and Islamic laws; whoever does not agree (with the implementation of Shari'a and Islamic law); (they) should go away from the land of Allah". Some members of these organizations also screamed with anger threatening to kill the petitioners when two members of the Islamic Liberal Network (JIL-*Jaringan Islam Liberal*), Ulil Abshar Abadalla and Luthfi Assyaukani were entering the court.[212]

1. Petitioners and Their Concept of Freedom of Religion

In the hearing session, the petitioners argue that the law number 1/PNPS/1965 is against a legal state like Indonesia because it was issued by the Old Order regime, Sukarno who had overstepped his power by making a regulation. In fact, according to the constitution the president only has right to propose an arrangement of a regulation and it is the DPR who have right to issue it.[213] In addition, the laws against blasphemy contradict the constitution, particularly the new amendment of the constitution who adopted the International

[211] Sabili, "Polemik Hasyim Muzadi-Gus Dur Atheis?", Last Modified on November 19, 2009. http://www.sabili.co.id/indonesia-kita/polemik-hasyim-muzadi-gus-dur-atheis

[212] This description is based on the situation which is shown in one of the main data of this thesis, the documentary film recorded by M. Isanegri. This documentary was presented at KITLV in Leiden, the Netherlands.

[213] This opinion is based on the paragraph 1 of the article 20 and the paragraph 1 of the article 5 of the UUD 1945.

Covenant of Human Rights concerning right "to choose a religion, to believe in a belief, to express thought and feelings."[214] Besides, it opposes the first and the second paragraphs of the article number 28 of the constitution which guarantees freedom of religion in Indonesia. The next reason is that the 1965 Presidential Decree of blasphemy was formulated when the State was in danger. The political chaos when Sukarno employed Guided Democracy system in the country in which the power of the president was absolute over the parliament. According to the petitioners, regulations such as the 1965 Presidential Decree which were issued in the period of Guided Democracy are not eligible to be implemented today.

However, there are many regulations which were formulated in the Old Oder are continued to be enforced in Indonesia. In this case, the petitioners are generalizing the case of the laws against blasphemy to justify that all laws in the Old Order should be banned.

Luthfi Assyaukanie, a scholar invited by the petitioners, state that this law created conflicts in the society which can prevent the development of this country. Besides, it is against justice which is defined in the constitution; sentencing and arresting a person who is practicing a belief or a ritual which was considered misleading is illegal and against the constitution. Indonesia is not a state which is based on a particular religion, which has authority to judge which religion or belief accepted in the country, instead, Indonesia, as stated in the constitution, is a state which declares that faith and belief is a private matter which cannot be interfered by the State. Moreover, the constitution does not confine how many religions can exist in the country. The State is obligated to protect all religions and beliefs including mysticism and other religious sects. He argues that the

[214] For detailed discussion of the inclusion of human rights in the UUD 1945 see Imam Santoso, *Kovenan Internasional tentang Hak-hak Sipil dan Politik* (Jakarta: Badan Penelitian dan Pengembangan Hak Asasi Manusia/Departemen Kehakiman, 2003).

government's effort to restrict the numbers of religions is disgracing the constitution which is in this case similar to disgrace a religion.[215]

He further asserts that "it is common that religious authorities, such as the MUI and the Office of Indonesian Church Representation (KWI-*Kantor Wali Gereja Indonesia*) issue a fatwa or a ruling indicating that a particular religious sect is deviated. He gives an example that when disseminating Islam in the first period in Mecca, the Prophet was considered misleading by pagan communities and even Shi'ite followers consider Sunnite followers deviated. Therefore, it is MUI's or KWI's duty to convince their followers to prevent heresy in their communities. However, the state has no rights to intervene or to ban religious sects based on a fatwa or a ruling, since it is against human rights and the constitution."[216]

Another scholar who supports the petition is MM. Billah, the former chairperson of the National Commission (Komnas-*Komisi Nasional*) of human rights. He asserts that the law number 1/PNPS/1965 is against human rights covenant which was adopted by the UUD 1945 in its third amendment. He further emphasizes that "the phrase *menafsirkan* (to interpret) is a process of thinking" which is part of freedom of religion and a subjective matter, and therefore the state is not allowed to intervene the rights of people to have an interpretation of a particular religion which is guaranteed by the human rights covenant.[217]

Arswendo, one of the victims of the implementation of the article 156a of the KUHP regarding blasphemy attended the hearing session in the side of the petitioners. He says that he did not realize that comparing the Prophet Muhammad with ordinary people in the survey is considered as blasphemy. Surprisingly, he further asserts that actually there are two other polls which have the same results as Tabloid Monitor. The first is the result publication of Tempo Magazine a poll conducted by a doctoral student. This student distributed questionnaires regarding

[215] Document of the Decision of the MK Number 140/PUU-VII/2009 on the Judicial Review of the Law Number 1/PNPS/1965 about Blasphemy, 92.
[216] Ibid., 93-94.
[217] Ibid., 98.

famous figures that the university students idolize and the result include the Prophet Muhammad. The second is the translation of a book written by a foreign scholar regarding charismatic figures in the world. Arswendo complains that why these publications prior to his poll in the Tabloid Monitor were not accused of blasphemy.[218]

There are arguably three main points underpinning the idea of the removal of the laws. The first is that the application of the laws legitimizes violence towards religious minorities declared deviants in which it is understood by the petitioners that the State has violated the constitution by arresting leaders and members of heretical groups through their police force. The second is that the content of the laws opposes the principles of freedom of religion which are guaranteed by the UUD 1945, International Covenant of Human Rights, and the basic nature of Islam as stated by Assyaukani. Last but not least, the laws against blasphemy which was issued before the amendment of the UUD 1945 do not have legal standing. It means that they should be removed and replaced by a new law in accordance with the new amendment of the UUD 1945.

2. Government and the Limitation of Freedom of Religion

In response to the reasons conveyed by the petitioners, the government's opinions show their resistance to the idea of the removal of the laws. In their written response, they state that "the government disagrees with petitioners' opinion that the law originating from the 1965 presidential decree was created when the country was in danger. Even though Sukarno implemented Guided Democracy system, the state was stable and under the government's control. Moreover, according to the government the law is applicable since the decree was declared to be a law as based on the decision of MPRS (TAP MPRS no. XX/MPRS/1966) and then DPR approved it to be part of KUHP article 156a

[218] Ibid., 86.

based on the law number 5 in 1969. Accordingly, this law is not against the constitution."[219]

They add in response to petitioners' argument stating that the law restricts freedom of religion; the government opines that the law number 1/PNPS/1965 was created to protect adherents of religions to perform the teachings of their religions, to create peace and religious harmony. In addition, they state that this law is not concerned with individual interpretation. What is forbidden as stated in the law is to publicly call for mass support to interpret teaching (s) of particular religions which are admitted in the country or to perform religious rituals which similar to those religions and which can be considered misleading. If this matter is not regulated through a law, it has possibilities to cause public unrest, religious conflicts, and disintegration and instability of the state. Moreover, if this law is removed, the government is afraid that religious communities would take the laws in their own hands to punish a person or a sect who is considered to desecrate religion.[220]

Moreover, the MK invited the Minister of Law and Human Rights and the Minister of Religious Affairs to deliver their opinions concerning the petition. Patrialis Akbar, the Minister of Law and Human Rights, affirms that if the petition is accepted by the MK, there would be defamations within and between religious communities which may damage religious harmony among religious adherents. Suryadharma Ali, the Minister of Religious Affairs asserts that "the law against blasphemy was issued not for the restriction of freedom of religion, but it is created to guard freedom of religion, religious harmony, and to protect religion from desecration and coercion towards the people to convert to a particular religion". Furthermore, he asserts that based on the law, a person is not forbidden to interpret doctrines of a religion as long as he does not try to attract people's support for his interpretation. The removal of the law can trigger religious violence because the government does not have a regulation to punish a person or

[219] Ibid., 117
[220] Ibid., 119.

a sect which was accused of desecration of a religion. Freedom is, indeed, a civil right of every person, but in its application there must be limitations of freedom of religion in accordance with religious norms, public security, and regulations. In his final speech, Suryadharma Ali questions whether the petitioners have a religion or not and whether they have become victims of the application of the law or not. This statement was followed by the scream of *takbir* (*Allahu Akbar*) from members of Muslim organizations who attended the session. Most of them are affiliated to the FPI, the DDII, and the HTI. Some of them are students of *pesantrens* in West Java.[221]

The DPR, one of the legislative bodies of the State, argue that the law number 1/PNPS/1965 should be maintained because it is in line with the spirit of *Pancasila*, particularly the first principle "believe in the one and the only God". Although this law was formulated in the Old Order regime, it does not mean that this law is out of date. All regulations which were created in the Old and New Order era should be defended even those which were formulated in Colonialisation periods. Based on the decision of the constitution, the DPR assert that human rights can be restricted by a law if it is necessary. Moreover, the International Law Instrument regarding universal declaration of human rights states that "in implementing individual rights and freedom, human rights should follow restrictions which were created through regulations."[222] The DPR argue that government is permissible to confine interpretations of a religion through their regulations to maintain security, health, orderliness, and morality of society or to protect others' rights.[223]

K.H. Hasyim Muzadi, the former chairperson of the NU, came to the court in support of the government and stated that the law number 1/PNPS/1965 is not

[221] Ibid., 241.
[222] The article 29, paragraph 2 of the Declaration of Universal Human Rights as quoted by the DPR in their written explanation in response to MK's invitation in the hearing session of 'the blasphemy laws'. Ibid., 137.
[223] Ibid., 134. The article 18, paragraph 3 of the International Covenan of Civil Individual Rights and Politics as quoted by DPR in their written explanation in response to MK's invitation in the hearing session of 'the blasphemy law'.

related to freedom of religion, but it deals with disrespect of religions. He adds that this law is not aimed to restrict religions that may emerge in the country. He further explains that "this law is still relevant and necessary because removing this law can trigger instability of the state, destroy religious harmony, discriminate religious minorities. Removing this law may also means to allow society to create anarchism toward heretical groups". "Blasphemy is not part of democracy. Democracy urges religious followers to respect each other and not to humiliate one another". He also comments on liberalisation and secularisation that "liberalisation is when a person interprets his religion without a methodology which is commonly used by the mainstream religious scholars in which he sometimes include democracy to support his interpretation. This liberalisation can lead to secularisation which can disadvantage all religions. However, it does not mean that the state has authority to intervene religious teachings. The duty of the state is to protect religious harmony and to keep stability of the state". Furthermore, he defines that "liberalization of a religion is when a religious person interpret his own religion without common paradigms". According to Hasyim Muzadi, this law was issued to prevent atheism which increased in 1965 when the country has its absolute power.[224]

Another expert invited by the government is Atho Mudzhar, the chief of the Division of Research and Development at the Ministry of Religious Affairs. In regard to the SKB, he opines that the law number 1/PNPS/1965 is not against the constitution. As for the 2008 SKB, it was issued to protect Ahmadiyah's adherents from mass violence. He affirms that the 2008 SKB is in line with the law number 1/PNPS/1965 in regard with blasphemy to protect religious minorities from societal violence which may emerge if there is no regulation concerning blasphemous attitudes towards religions.[225]

In response to Assyaukani's statements about the emergence of different *madhhabs* in Islam which are allowed in Islam, Rahim Yunus, one of the scholars

[224] Document of the Decision of the MK, 121-123.
[225] Ibid., 126.

invited by the government, state that the existence of Islamic sects, such as Sunnite and Shi'ite which was caused by different interpretation is not regarded as blasphemy because it is not concerned with the mainstream teachings of Islam. In other words, their interpretations are still based on the Qur'an and *Hadîth*.[226]

Khofifah Indar Parawangsa, the former Minister of Woman Affairs in Gus Dur's presidency, explains that "the Prophet led a plural society and created a regulation to protect religious communities in Medina. Besides, the explanations of human rights covenant of the United Nations state that freedom can be limited by a regulation. The 1965 decree was formulated based on agreement between the president under considerations of Minister of Religious, Minister of Home Affairs, and the Attorney General to cope with the relationship between religious communities. In addition, the law is necessary to regulate freedom of religion in Indonesia." However, she did not completely reject the petition; instead she says that the content of the law has multi interpretations which might create public debates within religious communities. Furthermore, she says that the government should create a clearer regulation regarding blasphemy. The law number 1/PNPS/1965 can be removed after the new law of blasphemy which is not ambiguous is ready.[227]

On the contrary with the petitioners' opinions, the government including the DPR and most of scholars who came for the invitation of the government argue that freedom of religion in Indonesia should have limitations. It means that there must be a verdict which stipulates to what extent freedom of religion based on the convenant of human rights should be manifested. Interestingly, there is a confrontation of opinion about the protection of religious minorities. As mentioned that the petitioners argue that one of the reasons behind the demand of the withdrawal of the law is that the law was used as a means to suppress religious minorities, such as heretical groups. On the other hand, the government also argues the law was created to secure religious minorities from societal violence.

[226] Ibid., 127.
[227] Ibid., 248.

Does this dispute of opinion appear because of the ambiguity of the content of the law? Why the government does not consider the prosecution of leaders and members of heretical groups as discrimination towards religious minorities in their reactions towards the petition?

3. Muslim Organizations and the Theological Perspective

Most of the reactions of Muslim organizations towards the petition emphasize the criteria of which different interpretation can be and cannot be tolerated in Islam. They all agree that the law must be defended regardless freedom of religion and human rights. Some of them even oppose the adoption of human rights in the UUD 45.

The MUI state that "in *Reformasi* era there are some religious sects who are in contrast to the fundamental teachings of Islam and even there are some people or groups who have no respect to Islam. These phenomena have led Muslims to deviate from the mainstream and resulted in public unrest within the society. The MUI is therefore responsible to save and guide deviated Muslims to return to the right Islam as revealed to the Prophet Muhammad."[228] The MUI believe that "the petitions which were delivered to the MK cannot be separated for some groups who support Ahmadiyah". In relation to Ahmadiyah, the MUI quoted Hasyim Muzadi's statement in *Republika*, "do not talk about freedom of religion, do not talk about human rights concerning Ahmadiyah case because Ahmadiyah is not a religion. If Ahmadiyah is a religion, we can talk about freedom of religion. However, they (Ahmadiyah) admit as Islam". The MUI affirm that if Ahmadiyah still declare as Muslims, they should follow the mainstream teachings of Islam. However, if they still confess as Muslims, they should leave this country if they do not want to be prosecuted by the laws against blasphemy. Furthermore, MUI state that there is a distinction between religion and human rights. The petitioners' opinions are based on Western human rights which support absolute freedom and which is dominated by rights only, whereas

[228] Ibid., 139.

Islam emphasizes a balance between rights and duties. Islam is a universal religion and gives blessing to every creature in universe (*rahmatan lil 'âlamîn*). Islam not only regulates the relation between human and his God or the position of human in front of God, but also regulates the interrelationship between humans and the position of human among other creatures.[229]

Adian Husaini, the chairperson of the DDII, who attended as a scholar invited by the MUI opines that Indonesia is not a secular state because government have significant role in regulating marriage, Hajj, philanthropy (*zakat*) and Islamic banking. The main aim of the formulation of the law number 1/PNPS/1965 is to prevent blasphemy and conflict among religious communities. The removal of the law would result in subjective interpretations of religious teachings. He agrees that most of the countries in the world have adopted human rights and freedom of religion, but each of them has restrictions which are stated in their constitution. He suggests that the laws should be defended and even if it is possible, the government should issue a new law which is more direct and strong to prevent blasphemy.[230]

In the written document, Muhammadiyah assert that freedom of religion should be limited. According to Muhammadiyah, "freedom of religion is freedom to convert to a religion, to worship based on religious teachings, and even to form a religion based on a person's belief and faith. However, this freedom is applicable if it does not offend other religions". They add that the issuance of the laws of offence of religion is not a form of intervention of the State towards religious life of the people, rather than it is a form which implements equality

[229] Ibid. The MUI quoted a verse of the Qur'an: QS. 3:112 [Indignity is put over them wherever they may be, except when under a covenant (of protection) from Allah, and from men; they have drawn on themselves the Wrath of Allah, and distruction is put over them. This is because they disbelieved in the ayat (proofs, evidences, verses, lessons, signs, revelations, etc.) of Allah and killed the Prophets without right. This is becuase they disobeyed (Allah) and used to transgress beyond bounds (in Allah's disobedience, crimes and sins.]. However, in the documents MUI only quote the interpretation of the verses that "Islam is a way of life, a way of thinking, and a way of conduct. Religion include political, economic, social, and legal systems". P. 140. The translation of the verses of the Qur'an was quoted from Muhammad Taqî al-Dîn al-Hilâlî and Dr. Muhammad Muhsin Khân, *Tanslation of the Meanings of the Noble Qur'an in the English Language*, (Madinah: King Fahd Complex for the Printing of the Holy Qur'an, 1440 H).
[230] Ibid., 151.

among people before the law. In addition, Muhammadiyah state that the Ministry of Religious Affairs in the name of the government has authority to determine which interpretation is deviated. They define blasphemy as interpreting or performing religious practices which deviate religious teachings believed by the majority of adherents of a religion. For example, all Muslims believe that the Prophet Muhammad is the last prophet in Islam and therefore if there is a person who admits himself a prophet after Muhammad, he has disgraced the teaching of Islam.[231]

The biggest Muslim organization, the NU, responds the petition that Islam tolerates freedom of religion, since Islam was revealed to Muhammad. Islam also allows different interpretations of religion as long as they do not contradict the Qur'an and the *Sunna*. For instance, Muslims may have different ways in performing prayer, but they agree that prayer is an obligation for every Muslim. They further say that the problem is not in the content of the law, but it is in the implementation of the law because the government institutions, such as the state court cannot decide fairly the cases of blasphemy. The government through their police force should safeguard heretical sects in order not to be violated by mass, and prosecute the cases of heretical groups in accordance with the procedure of Indonesian legal system.[232]

Some radical Muslim organizations (the DDII, the HTI, the FPI, and the Persis), argue that the law number 1/PNPS/1965 is not against the constitution because Indonesia is a religious state as based on the first principle of *Pancasila*. Therefore, the proposal of the petitioners to remove the laws is not relevant to *Pancasila*. Besides, the MK has authority to examine a law which contradicts to the constitution, but it has no authority to repeal the laws. They also state that the petitioners do not understand the objective of the formulation of the law number 1/PNPS/1965. According to the Persis, the law is issued to prevent blasphemy, particularly towards Islam. They add that this law becomes the reason behind the

[231] Ibid., 153.
[232] Ibid., 168.

demand of the reinsertion of the Jakarta Charter (*Piagam Jakarta*). They further say that the petitioners who proposed the removal of the law based on human rights have humiliated and insulted their own religions with their model of thoughts ranging from pluralism, secularism, to liberalism. They quote *fiqh* statement that the duty of the State is to keep religion and to rule the world (*hirasat al-dîn wa siyâsat al-dunyâ*) including to keep religion safe from people who desecrate and destroy it.

The FPI Affirm that "Islam respects diversity of religion, but Islam opposes defamation within and between religions". They declare war on blasphemy. In addition, they assert that "Islam appreciates freedom of religion, but refuses to mix the teachings of religions". Therefore, FPI state that they support the law number 1/PNPS/1965 and request the MK to refuse totally the petitions. In addition, Habis Rizieq delivers a speech in the hearing session threatening that "if the MK accept the petition and withdraw the laws against blasphemy, his organization, the FPI, possibly punish a person or a group which desecrate Islam with their own way either by slaughtering or killing the perpetrator."[233]

The HTI argue that the law number 1/PNPS/1965 allows the judicature in Indonesia to judge which interpretation is categorized to disgrace the teaching of a particular religion. It is not a religious institution within religious communities which has to deal with heresy or defamation of religion. Furthermore, they state that it is permissible for a person to have different interpretation of the teaching of a religion as long as he does not attempt to attract others to believe in his interpretation. In addition to their explanation of the law, they opine that Musdah Mulia, one of the individual petitioners, has disgraced Islam when he allows people to do same-sex marriage. They believe that Musdah Mulia has significant

[233] Ibid., 204.

role in liberalisation of Islam which is considered to be dangerous for Muslims' piety in Indonesia.[234]

In addition to these radical organizations, *Pondok Pesantren* Al-Irsyad Al-Islamiyah opines that there are no other countries in the world which guarantee freedom of religion as free as in Indonesia, specifically for religious minorities. Freedom of religion should be understood fairly, since freedom to choose a religion is not intervened by the state, but it is an individual right. The law number 1/PNPS/1965 is very significant to protect religions in Indonesia from blasphemy because there are recently some people who admit as prophets and even as God. Interpretations of a religion should be performed by religious scholars who have capacity in their religious field. They say that "absolute freedom only belongs to Allah, whereas human only have limited freedom. Freedom of religion in Indonesia is freedom based on *Pancasila* and not based on liberalism."[235]

The Irene Center Foundation through its leader Irene Handono, a new convert to Islam (*Muallaf*), who is very active in fighting apostasy in Islam state that the law number 1/PNPS/1965 should be defended to prevent blasphemy. In addition to Ahmadiyah and other heretical sects, Irene Center Foundation gives more evidence of blasphemy which was conducted through books such as *the Islamic Invasion* written by Robert Morey and *Upacara Ibadah Haji* written by H. Amos. In the first book, the author state that Allah is a pagan and a traitor, the Prophet Muhammad is crazy, and in the Qur'an there are some "satanic verses".[236] In the second book, the author asserts that Hajj is a ritual for children and Allah is more than one. Handono asserts that she cannot imagine what will happen to

[234] Ibid., 206.
[235] Ibid., 205.
[236] The term of satanic verses is derived from the fourth Novel of Salman Rushdie whose some of the story was inspired by the life of Muhammad. The Satanic verses refer to a group of the verses of the Quran which, according to Rushdie, urges Muslims to pray to three pagan Meccan goddesses: Allât, Uzza, and Manât. This novel created controversy and was banned in many Muslim majority countries. Muslims in the world are angry because the novel desecrates Islam. See for detailed discussion Daniel Pipes, *the Rushdie Affair: the Novel, the Ayatollah, and the West* (New Delhi: Voice of India, 1998).

Islam if the laws against blasphemy are removed from the Indonesian legal system.[237]

Other Muslim organizations such as the FUI, the FKUB, and the Dewan Masjid Indonesia add reasons to defend the law number 1/PNPS/1965. The FUI say that the essence of the law is to prevent blasphemy. Removing this law means allowing people to disgrace religions. There is no religion which is forbidden to exist in Indonesia as stated in the law; what is forbidden in the law is to have no respect of religions. The FKUB State that they request the MK to refuse all petitions of the petitioners. If the MK intends to accept the petitions, government should issue a new regulation regarding blasphemy which is clearer and "to the point". Moreover, the Dewan Masjid Indonesia argues that "the creation of the law number 1/PNPS/1965 should be considered as blessing from Allah. When this law was formulated, the condition of religious life in Indonesia was in danger because there was intimidation and repression towards *'ulamâ* in the form of *Nasakom*." They further state that "it is doubtful that the petitioners have enough funding to finance all of the process of petitions. We believe that they attain financial support from people or organizations who intend to destroy the Republic of Indonesia."[238]

The discussion of opinions expressed by the Muslim organizations in the hearing session infers the strong opposition towards the petitions. Their arguments seem to be in line with the government's which according to most of Muslim organizations at the MK has implemented the law in accordance with the UUD 1945. Conversely, most of their opinions mainly deal with war on blasphemy by emphasizing the criteria of blasphemy. Besides, their statements show their strong opposition towards liberal interpretations promoted by the members of the JIL and some moderate Muslim scholars.

[237] Document of the Decision of the MK, 199.
[238] Ibid., 208-209.

4. The MK and Its Decision

Not only the petitioners, the government, and the MUI who ask some scholars to support their opinions, but the MK also invited some scholars to hear their opinions about the laws against blasphemy. Most of the scholars are the prominent religious leaders and professors of law in leading universities in Indonesia. Of the fourteen scholars are only two who urge the MK to refuse the petition. It is Komaruddin Hidayat, the rector of the State Islamic University of Jakarta, who states that "the matter of a religion or belief is absolutely a civil right. However, when it is practiced in social domain or in public, a person should consider other adherents of other religions. Therefore, in this domain the State should play an important role to regulate relationship among adherents. The State has no right to interfere individual religions, but it has right to regulate interrelationship between and among adherents of religions to prevent religious conflicts". He concludes that there should be a regulation to confine the reinforcement of freedom of religion.

Another scholar who defends the law number 1/PNPS/1965 is Yusril Ihza Mahendra, the former chairman of the PBB. He argues that "Indonesia is not independent as an Islamic state or a secular one, but Indonesia is in between which is based on the Oneness of God 'with obligation to implement Islamic *Shari'a* for its followers in accordance with the values of humanity and justice'[239]. Although the last phrase ('with obligation to implement Islamic *Shari'a* for its followers in accordance with the values of humanity and justice') was removed from the constitution, in the religious context, it is applicable and would never lose from the context of religious life in Indonesia". Moreover he asserts that religion needs the State in terms of protections, services, and assistance to unable its followers to perform their religious duties which cannot be committed without the assistance of the government, such as pilgrimage for Muslims. Accordingly,

[239] These words were removed in the Indonesian Constitution. In this case, Yusril attempted to promote the famous seven words of the Jakarta Charter (*piagam Jakarta*). For detailed discussion concerning the demands of some Muslim organizations and political parties to re-include these words see Hosen, "Religion and the Indonesia Constitution", 419-440.

the laws against blasphemy should be defended because it is important to regulate religious followers, and to prevent desecration of religions.[240]

The other four of fourteen scholars invited by the MK support the petition and urge the MK to remove the law. One of them is Ulil Abshar Abdalla who argues that the words "…the fundamental teachings of a religion…" stated in the law number 1/PNPS/1965 is ambiguous since it may refer to different meanings. In the history of Islam, interpretation of the teachings of Islam is never considered as blasphemy. He explains that the first caliphate of Islam, Abu Bakr, murdered Musailamah al-Kadzab, not because he confessed as a new prophet after Muhammad, but because he has provoked Muslims to refuse paying alms (*zakât*). This attitude was regarded as rebellion by Abu Bakr. He adds that the fear of Muslim majority that if the law is removed, there would be more blasphemous attitudes is not acceptable, since there are religious authorities like the MUI, the NU and Muhammadiyah which can issue a fatwa for their followers to prevent heresy. Indonesia is not a religion-based state and therefore it should be neutral in treating all religions and beliefs. The guidance of religious life should be undertaken through *fatwâs*, but the government is not allowed to defend those *fatwâs*.[241]

The rest of the scholars urged the government to review the law. They argue that the laws are ambiguous and results in controversy. For example, M.H. Ainun Najib, the founder of *Kyai Kanjeng,* a religious musical group, opines that the removal of the laws against blasphemy can create religious conflicts, while maintaining it can result in fear in a long period. According to him, the controversy of the law cannot be solved by the constitution or by the government. He proposes that all elements in the society, particularly religious communities and the government should discuss the case of blasphemy together to issue a new regulation concerning blasphemy which is not ambiguous.[242]

[240] Document of the Decision of the MK, 221.
[241] Ibid., 217.
[242] Ibid., 215.

After considering the argumentations of the aforementioned parties, including scholars who involved in the hearing session, the judges of the MK held a meeting before deciding whether the petition is accepted or refused. Finally, the chairman of the MK, Mahfud MD declares the decision of the MK on April 19th, 2010 that "the MK decides to refuse the petitions of the petitioners as a whole." The MK argues that the law number 1/PNPS/1965 is necessary in Indonesian context. This is not only based on juridical point of view, but also from philosophical one. It discerns that freedom of religion in Indonesia is not like that of other countries. Besides, in a plural society the government plays vitally important role to manage and regulate interrelationships among and between religious communities to prevent violence and conflict in the name of religion. Furthermore, they assert that according to the human rights in Indonesia, freedom of religion is not free-values. Freedom in Indonesia has limitations when it disturbs the others' freedom in practicing their religions and beliefs.

However, two of the nine judges of the MK have different opinions. Both opinions suggest the revision of the laws. Harjono argues that the article 1 of the law number 1/PNPS/1965 should be revised because it is ambiguous. The revision, however, is time-consuming and therefore the law should be defended until a new formulation of the article 1 of the law is ready. Maria Farida Indrawati, the only MK's female judge, states that "the law is a product of the Old Order but it is still applicable in Indonesia. As for its content, the articles of the law have ambiguities, specifically due to the amendment of the Indonesian constitution."

Therefore, the different opinions of the scholars which were invited by the MK and of the MK's judges arguably shows different interpretations of the content of the laws against blasphemy, or at least they reveal that the laws have triggered heated debates among Indonesian Muslims. The declaration of the refusal of the petition was followed by *takbîr* by members of Muslim organizations who took part in the session, most of which are members of the FPI.

C. The Implication of the Decision of the MK towards Indonesian Islam

Although the MK has decided to defend the laws against blasphemy, Muslims still argue about the implication of the decision of the MK towards religious life in Indonesia. This issue was predicted by the chairman of the MK who asserts that the MK's decision regarding the judicial review of the law number 1/PNPS/1965 would be controversial.[243] For example, Heru Prasetya, the leader of the Gus Dur Forum, argues that the members of the Gus Dur forum are disappointed with the decision because it means that the government support public prosecution and religious violence towards heretical religious groups in Indonesia.[244] In addition, the Minister of Religious Affairs, Suryadharma Ali, states that the people who do not agree with the MK's decision concerning the petition should propose their petitions to the DPR who have authority to repeal or change a regulation. He asserts that the MK has decided the case in accordance with freedom of religion which is enforced in Indonesia.[245] Surprisingly, two days after the MK announced their decision, the chief of the Commission 8 of the DPR, which is in charge of social, religious and women's empowerment affairs, Abdul Kadir Karding states that the DPR would attempt to examine the content of the law because there are some ambiguities. It might be revised to make it clear and avoid multi interpretations.[246]

According to the survey of the implication of the MK's decision, the debate concentrates on whom should determine whether a person or a religious is deviated or not. Some of members of the KAMMI in Malang state that the

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[243] Kompas, "Mahfud MD: Putusan Bakal Picu Pro-Kontra", Last modified on April 20, 2010. http://nasional.kompas.com/read/2010/04/18/1631379/Mahfud.MD:.Putusan.Bakal.Picu.Pro.Kontra.html.

[244] Detik, "Putusan MK Dikhawatirkan Jadi Angin Segar bagi Pelanggengan Diskriminasi", Last Modified on April 20, 2010. http://us.detiknews.com/read/2010/04/20/072923/1341526/10/putusan-mk-dikhawatirkan-jadi-angin-segar-pelanggengan-diskriminasi.html.

[245] Republika, "Menag: Tak Setuju Putusan MK Silahkan ke DPR", Last Modified on April 23, 2010. http://www.republika.co.id/berita/dunia-islam/islam-nusantara/10/04/24/112612-menag-tak-setuju-putusan-mk-tentang-uu-ppa-silakan-ke-dpr.html.

[246] Kompas, "Komisi VIII Mau Revisi UU Penodaan Agama", Last Modified on April 21, 2010. http://nasional.kompas.com/read/2010/04/21/18241964/Komisi.VIII.Mau.Revisi.UU.Penodaan.Agama.html.

decision of the MK implies that the government has a right to examine whether a person or a group has desecrated a religion or not. However, the decision should be based on investigation and research to ensure that his or their attitudes can be categorized as blasphemy. The other members of the KAMMI in Malang assure that the government should cooperate with the *ulama* before declaring a person or a group is deviated and has desecrated Islam. In other words, the *ulama* or religious scholars should give recommendations to the government concerning religious sects who are accused of blasphemy and then the police investigate the case in order to find evidence. However, they do not agree if a person who disgraces Islam is declared as an infidel (*kâfir*). They explain that only God can decide whether a Muslim who desecrates Islam an infidel or not because the Prophet states that "a person who claims a Muslim is an infidel is himself infidel."

As for the case of Ahmadiyah, they assert that societal violence is not lawful in Islam even though Ahamdiyah is declared heretical by the MUI. Therefore, the SKB is relevant to reinforce the role of government in protecting Ahmadiyah adherents. The conflict occurs when the government cannot play their role in society. In addition, some of the members state that using violence by Muslims to punish heretical groups would damage reputation of Islam in the world because it may lead to the conclusion that Islam is a radical religion.

Some of the members of the Lakpesdam NU in Malang and one of the members of the Politics Students Association of Brawijaya University in Malang state that the MK's decision would not solve the heated debates among Muslims regarding the laws against blasphemy and freedom of religion, instead it would create more controversies because this decision can be used as a means to legitimize mass violence under the banner of a religion. They further assert that the MK is not responsible for the societal violence of the cases of heretical groups because it is obvious that the law has support radical Muslim organizations to act against human rights and the constitution.

Based on this survey, it may be concluded that the decision of the MK in the hearing session cannot end the debates of blasphemy in Indonesia. People remain arguing the State's role in upholding freedom of religion. To what extent can the State limit the implementation of freedom of religion and to what extent can religion influence decision-making of the State?

CONCLUSION

The *fatwâs* of the MUI against the heretical groups, particularly Ahmadiyah become the social background of the recent debate on the laws against blasphemy. These *fatwâs* have been used by some members of the radical Muslim organizations not only to urge the government to act upon the heretical groups in accordance with the laws against blasphemy, but also to legitimize violence against the heretical groups. As a result, the leaders and some members of the heretical group were sentenced based on the laws after they were prosecuted of blasphemy.

A number of violence and prosecution against the heretical groups and the issuance of the SKB to cope with the case of the Ahmadiyah are opposed by some of Muslims and human right activists who name their group as the AKKBB. They argue that the actions against the heretical groups are in contradictory with freedom of religion which is guaranteed by the UUD 1945 and the covenant of human rights which was included in the amendment of the UUD 1945. They further state that the government has no right to intervene religious life of the society and therefore the laws against blasphemy which are used to imprison the leaders and some members of the heretical groups should be banned. The duty of the government is to guard the implementation of freedom of religion and to protect the heretical groups from mass violence.

The demand of the removal of the laws against blasphemy was sent by the AKKBB to the MK which is responsible to examine the status of a regulation within the framework of the UUD 1945. The petition of the AKKBB draws much attention of people in Indonesia, particularly Muslims. It creates tension in the society between those who agree with the petition and who do not. Afterwards, the MK held a hearing session regarding the implementation of the laws which involve all the members of the society, most of which are the members of Muslim organizations.

Freedom of religion dominates the discussion of the eligibility of the implementations of the laws against blasphemy. The AKKBB attempt to convince

the MK that freedom of religion which is applied in Indonesia cannot be confined by a regulation. In other words, the government should guarantee the liberty of Indonesian people to convert to a religion and to have different interpretation of a particular teaching of a religion. In addition, it is the MUI or other religious bodies which should deal with the heretical groups and the government cannot employ the *fatwâ* as the basis of the enforcement of the laws against blasphemy. Most of Muslim organizations and the government oppose the opinions of the AKKBB and argue that freedom of religion in Indonesia should be limited to prevent religious conflict in the society. The laws against blasphemy function as a regulation to control the implementation of freedom of religion. The abolishment of the laws can create violence against people and organizations which desecrate religion. This violence can become a threat of the security and the integration of the country. The decision of the MK which refused the petition of the AKKBB redefines that freedom of religion in Indonesia is confined by the laws against blasphemy. The pressure of the majority of Muslim organizations towards the government and the MK arguably influence the final decision of the MK regarding the demand of the removal of the laws against blasphemy.

As mentioned above, the recent debate on the laws against blasphemy reflects the controversy of the implementation of freedom of religion within the society. This debate also shows that the understanding of freedom of religion vary among Indonesian people which potentially trigger another debate on freedom of religion in the future.

The decision of the MK has significant implications to religious life in Indonesia, particularly within religious communities. In terms of relationship between adherents of religion, the regulation functions to maintain religious harmony and tolerance. However, in the context of relationship among followers of a religion, the majority dominate in determining which interpretation of the teachings of religion which is considered not to desecrate their religion. This situation causes discrimination towards religious minority groups, such as the Ahmadiyah.

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Appendix I : Summary of Opinions on 'the Blasphemy Law'[247]

A. Petitioners' Opinions

NO.	Name of Individual/Organization	Function	Opinion		
			Defend	Revise	Remove
1.	K.H. Abdurrahman Wahid (The former president of Indonesia and the Chairman of Nahdlatul Ulama)	Petitioner			X
2.	Prof. Dr. Musdah Mulia, M.A. (a lecturer at the State Islamic University of Jakarta and the former senior researcher at the Ministry of Religious Affairs)	Petitioner			X
3.	Prof. M. Dawan Rahardjo (the former chairman of ICMI)	Petitioner			X
4.	K.H. Maman Imanul Haq (the founder of *Pesantren* al-Mizan)	Petitioner			X
5.	Luthfi Assyaukanie P.hD (the cofounder of JIL)	Invited scholar		X	
6.	M.M. Billah (the former chairman of Komnas HAM)	Invited scholar			X

B. The Government's Opinions

1.	Suryadharma Ali (Minister of Religious Affairs)	Government Representative	X		
2.	Patrialis Akbar (Minister of Law and Human Rights)	Government Representative	X		
3.	DPR	Related party	X		
4.	K.H. Hasyim Muzadi (the former vice president of Indonesia and the former chairman of Nahdlatul Ulama)	Invited Scholar	X		
5.	Prof. Dr. Amin Suma (a	Invited			

[247] This summary is quoted from the MK's document of the judicial review regarding the demand of the removal of 'the blasphemy law'. The summary covers only Muslims' opinion, and not includes other religious adherents' opinions.

	lecturer at the State Islamic University of Jakarta)	Scholar	X		
6.	Prof. Rahmat Syafi'i	Invited scholar	X		
7.	Prof. Nur Syam (a lecturer at the State Islamic Institution of Surabaya)	Invited scholar	X		
8.	Dr. Mudzakir (a lecturer at the Islamic University of Indonesia of Yogyakarta)	Invited scholar	X		
9.	Dr. Atho Mudzhar (the Chairman of the division of Research and Development at Kemenag)	Invited scholar	X		
10.	Prof. Dr. Rusydi Ali Muhammad (the head of Syari'at Islam Agency in Aceh Provice)	Invited scholar	X		
11.	Prof. Dr. Rahim Yunus (a lecturer at the State Islamic University of Makassar)	Invited Scholar	X		
12.	Prof. Dr. Ali Aziz, M.A. (a lecturer at the State Islamic Institution of Surabaya)	Invited scholar	X		
13.	K.H. Hafidz Ustman (the chairman of MUI of West Java)	Invited scholar	X		
14.	Prof. Dr. H. Mahdini (the chairman of MUI of Riau)	Invited scholar	X		
15.	Khofifah Indar Parawangsa (the former Minister of Woman Affairs)	Invited scholar		X	

C. Related Muslim Organizations' Opinions

1.	MUI	Related party	X		
2.	Muhammadiyah	Related party	X		
3.	NU	Related party	X		
4.	DDII	Related party	X		
5.	Persis	Related party	X		

6.	PPP	Related party	X		
7.	BASSRA	Related party	X		
8.	Irene Center Foundation	Related party	X		
9.	DPP Ittihadul Mubalighin	Related party	X		
10.	FPI	Related party	X		
11.	PP al-Irsyad al-Islamiyah	Related party	X		
12.	HTI	Related party	X		
13.	FKUB	Related party	X		
14.	Komnas HAM	Related party	X		
15.	FUI	Related party	X		
16.	Dewan Masjid Indonesia	Related party	X		

D. The MK's Invited Scholars' Opinions

1.	Prof. Andy Hamzah	Invited scholar		X	
2.	Prof. Dr. Azyumardi Azra (a lecturer at the State Islamic University of Jakarta)	Invited scholar		X	
3.	Prof. Thamrin Amal Tamagola	Invited scholar		X	
4.	Emha Ainun Najib	Invited scholar		X	
5.	Ulil Abshar Abdalla (the founder of JIL)	Invited scholar			X
6.	Siti Zuhro (a researcher at LIPI)	Invited scholar		X	
7.	Ahmad Fedyani Syaifuddin (a lecturer at the University of Indonesia)	Invited scholar		X	
8.	Jalaluddin Rahmat (the chairman of Dewan Syura Ikatan Jama'ah Ahlul Bait Indonesia (IJABI)	Invited Scholar		X	
9.	Moeslim Abdurrahman (the	Invited			

	director of the Institute of Social Science Development/LPIS)	scholar			X
10.	Garin Nugroho (Indonesia's leading Independent Film maker)	Invited scholar			X
11.	Yusril Ihza Mahendra (the former chairman of PBB)	Invited scholar	X		
12.	Dr. Djohan Efendi (The chairman of ICRP and lecturer at Deakin University of Australia)	Invited scholar			X
13.	Taufiq Ismail (a man of letters)	Invited scholar		X	
14.	Prof. Dr. Komaruddin Hidayat (the rector of the State Islamic University of Jakarta)	Invited scholar	X		

Appendix 2: Interview

Assalamualaikum wr. wb.

Dengan ini kami memohon dengan hormat, saudara/i untuk berkenan mengisi kuisioner berikut sebagai bagian dari data penelitian kami tentang keputusan Mahkamah Konstitusi (MK) mengenai penolakan penghapusan undang-undang tentang penyalahgunaan atau penodaan agama pada tanggal 10 April 2010. Penelitian kami bertujuan untuk mencari bagaimana respon dari masyarakat terhadap putusan MK tersebut dan mencari hubungan antara *fatwa* MUI dan undang-undang penodaan agama. Pengisian ini bersifat sukarela. Identitas pribadi dan informasi responden dalam kuisioner ini akan kami jaga kerahasiaannya. Semua data yang terkumpul hanya akan digunakan untuk penelitian kami. Atas kontribusi waktu dan pikiran saudara/i kami ucapkan terima kasih. Jazaakumullah.

I. Data Pribadi

1. Nama : ……
2. Umur : ……
3. Jenis Kelamin : ……..
4. Jabatan di Organisasi : ……
5. Pendidikan terakhir : ……

II. Bagaimana Anda mendapatkan informasi perdebatan tentang undang-undang penodaan agama di Mahkamah Konstitusi (lingkari jawaban Anda)?

1. Televisi
2. Koran
3. Majalah
4. Teman
5. Internet
6. Lainnya: …….

III. Apakah Anda mengikuti jalannya perdebatan hingga Mahkamah Konstitusi memutuskan perkara perdebatan ini (lingkari jawaban Anda)?

1. Ya
2. Sebahagian
3. Tidak

IV. Pendapat tentang keputusan Mahkamah Konstitusi yang menolak penghapusan undang-undang penodaan agama (beri tanda (X) pada kolom yang sesuai dengan jawaban Anda).

No.	**Pertanyaan**	**Sangat setuju**	**setuju**	**tidak setuju**	**Sangat tidak setuju**

1.	UU tentang penodaan agama perlu dipertahankan untuk mengatur kehidupan beragama di Indonesia.				
2.	UU tentang penodaan agama membatasi kebebasan beragama di Indonesia.				
3.	UU tentang penodaan agama mencegah kekerasan massa terhadap aliran-aliran sesat.				
4.	Isi UU tentang penodaan agama ambigu dan perlu direvisi.				

V. Pertanyaan terbuka:

1. Menurut Anda siapakah yang berhak menentukan suatu aliran keagamaan itu sesat atau tidak? Mengapa?
   ……
   ……
   ……
   ……
   ……
   ……..
2. Menurut Anda apakah Negara berhak berhak menghukum aliran kegamaan yang disebutkan sesat oleh pihak di pertanyaan pertama?
   ……
   ……
   ……
   ……
   ……
   ……
3. Apakah Anda setuju dengan kekerasan yang dilakukan oleh sebagian besar Muslim terhadap Ahmadiyah di daerah-daerah di Indonesia?
   ……
   ……
   ……
   ……
   ……

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CURRICULUM VITAE

Syahril Siddik was born in North Labuhanbatu, North Sumatera on October 22, 1984. He completed his primary school at Sekolah Dasar Babussalam in North Sumatera in 1998. Afterwards, he went to Tasikmalaya, West Java to study at Pondok Pesantren Al-Mukhtariyah where he completed his junior high school in 2001. He continued his study at Madrasah Aliyah Negeri (MAN) Cipasung and graduated in 2004. He obtained his bachelor degree in English Language and Literature at the State Islamic University (UIN) Maulana Malik Ibrahim Malang in 2008. He pursued his study with the scholarship from Training Indonesia's Young Leaders Programme (TIYL) at Leiden University in 2010. He obtained his Master of Arts in Islamic Studies at Leiden University in 2011. Before continuing his study to doctoral degree at Leiden University, he was a lecturer and staff of vice rector for academic and international relation affairs at the State Islamic University (UIN) Maulana Malik Ibrahim Malang in 2011 - 2013. Syahril has written book chapters, articles for journals and newspapers on Islam, media, and human rights in Indonesia. He is also involved with Indonesian diaspora activities in The Netherlands. He became the chairman of Indonesian Students Association (PPI) in Leiden in 2010 – 2011 and the vice-chairman of the Special Branch of Nahdlatul Ulama (PCI NU) in The Netherlands in 2014 – 2018.

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